

WEEK 1 REPORT

// 2022 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA

JANUARY 10-14, 2022



// WEEK 1 REPORT

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The 2022 Legislative Session kicked off in Tallahassee January 11th. The next sixty days are going to be filled with proposed legislation, appropriation decisions and of course reapportionment.

As we enter this Legislative Session, please keep in mind this is an election year and all the Florida Congressional, State Senate and State Representatives are having their districts redrawn. Everyone of them will be on the ballot, so it will be a busy and expensive campaign season.

We know from experience election years are challenging and there are a lot of different dynamics in play. This year is going to be a very busy for Marine Industries of Florida. We have a lengthy tracking list that is attached. We are highlighting several of the bills below for your information.

We are working diligently on the Florida Fish and Wildlife "Glitch" Bill. The Senate bill contains some rowing language that could cause some issues. We are currently working with other stakeholders who also have issues with the way the language is written. Also, Senator Garcia and Representative Botana have filed Boating Safety bills this Session. We have had great conversations with Rep. Botana and have proposed some amendments to his bill for consideration. There are a lot of other boating bills filed this Session from Riparian Rights to Endangered Species to Vessel Safety flags to office of Blue Economy to Anchoring as always. As I stated earlier, we are going to be very busy this year and it is a year with an election looming in the background.

Next week is a busy week as Senate Bill 198 Seagrass Mitigation is up in Senate Environmental Protection with an amendment. Also, Senate Bill 1432 regarding Vessel Anchoring is on the Senate Environmental Protection agenda with an amendment. We will keep you posted on the movement of these two bills.

Thank you for allowing us to be your voice in Tallahassee. Please let us know if you would like us to add anything to the report.

Finally, thank you to all the MIA chapters that took time

to testify at their delegation hearings promoting our agenda and boating in Florida. Your time to put a face on this industry as a constituent in the district is very helpful as we support and oppose issues in Tallahassee.

We will be sending weekly reports during Session. If we need immediate action we will send a "Call to Action" to your email so please check as we are under tight deadlines for the next nine weeks.

Again, thank you and below are some of the highlighted bills:

A handwritten signature in dark blue ink, appearing to read "Margaret Timmins", with a large, stylized flourish extending to the right.

Margaret "Missy" Timmins
President
Timmins Consulting, LLC

// WATER RESOURCES MANAGEMENT

Senate Bill 198 // Sen. Ana Maria Rodriguez // Referred to: Environment and Natural Resources; Community Affairs; Appropriations

House Bill 349 // Rep. Toby Oberdorf // Referred to: Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 198: SB 198 authorizes the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) to establish seagrass mitigation banks to ensure the preservation and regeneration of seagrass and to offset the unavoidable impacts of projects, so long as the seagrass mitigation banks meet the public interest criteria enshrined in state law. The bill clarifies that it does not prohibit mitigation for impacts to seagrass or other habitats on sovereignty or non-sovereignty submerged lands, upon approval of the Board of Trustees.

Most Recent Action: Favorable with CS by Environment and Natural Resources; 3 Yeas, 2 Nays

House Bill 349: The Department of Environmental Protection (DEP) regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs). ERPs are required for development or construction activities typically involving the dredging or filling of surface waters, construction of flood protection facilities, building dams or reservoirs, or any other activities that affect state waters. Some projects are exempt from the requirement to obtain an ERP if they meet specific statutory restrictions. Environmental impact mitigation is required under certain circumstances to offset the adverse impacts to surface waters resulting from the construction activities allowed by an ERP.

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity to provide mitigation for unavoidable environmental impacts within a defined region referred to as a mitigation service area. A mitigation bank consists of a wetland, stream, or other aquatic resource area that has been restored, established, or preserved to offset such environmental impacts.

Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally influenced waters. The Board of Trustees of the Internal Improvement Trust Fund (Board) is responsible for determining whether a sale of sovereign submerged lands or a permit related to an activity conducted on sovereign submerged lands is within the public interest on a case-by-case basis.

The bill authorizes the Board to grant easements on sovereignty submerged lands for mitigation banks to ensure the protection and restoration of natural resources and to offset the unavoidable impacts of projects when mitigation banks meet the public interest criteria related to state owned lands.

The bill requires DEP to adopt and modify rules related to mitigation to ensure that the required financial assurances are equivalent and sufficient to provide for long-term management of permitted mitigation.

Additionally, the bill requires DEP, in consultation with Water Management Districts, to include the rulemaking required by the bill in existing active rulemaking, or to complete rule development by June 30, 2023.

The bill expands the ERP permitting exemption for certain private and local government-owned docks by exempting a dock that measures a distance of less than 65 feet along the shoreline if the dock is the only one on the easement. The bill specifies that such docks must be granted authorization for the use of submerged lands upon approval by the Board. Additionally, the bill creates a presumption of compliance with any requirement to minimize adverse environmental impacts for structures associated with a dock on a parcel of land that complies with certain ERP permitting exemption requirements.

The bill may have an indeterminate fiscal impact on the state.

Most Recent Action: Favorable with CS by Environment, Agriculture & Flooding Subcommittee; 13 Yeas, 4 Nays

Attached documents: CS/SB 198 + Staff Analysis; CS/HB 349 + Staff Analysis

// ENDANGERED AND THREATENED SPECIES

Senate Bill 238 // Sen. Shevrin Jones // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 711 // Rep. Ben Diamond // Referred to: Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

RELATIONSHIP: *IDENTICAL*

Senate Bill 238: Directing the Fish and Wildlife Conservation Commission to protect certain endangered or threatened species, regardless of the status of their federal classification; prohibiting the commission from considering certain costs when designating a species as endangered or threatened; directing the department, in consultation with the Endangered Plant Advisory Council, to protect certain endangered or threatened species, regardless of the status of their federal classification; prohibiting the department from considering certain costs when designating a species as endangered or threatened, etc.

Most Recent Action: Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 711: Revises legislative intent of Florida Endangered & Threatened Species Act; directs FWCC & DACS to protect certain endangered or threatened species; revises criteria for placement of species on Regulated Plant Index by DACS; prohibits FWCC & DACS from considering certain costs when designating species as endangered or threatened.

Most Recent Action: Referred to Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

Attached documents: SB 238 (as filed); HB 711 (as filed)

// FISH AND WILDLIFE CONSERVATION COMMISSION

Senate Bill 494 // Sen. Travis Hutson // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 323 // Rep. Tyler Sirois // Referred to: Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 494: PCS/CS/SB 494 revises laws administered by the Fish and Wildlife Conservation Commission (FWC) and other law enforcement entities. The bill:

- Amends the Florida Forever Act to require each lead land managing agency, in consultation with the FWC, to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger than 40 contiguous acres.
- Specifies that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted mooring or other structure.
- Specifies the circumstances in which law enforcement may destroy or dispose of a vessel.
- Reorganizes provisions authorizing the FWC to establish a program to provide grants to local governments for the removal, storage, destruction, and disposal of derelict vessels.
- Allows operation of human-powered vessels in the marked channel of the Florida Intracoastal Waterway for specified reasons.
- Specifies that a certificate of title may not be issued for a public nuisance vessel.
- Specifies that a local government cannot create a public bathing beach or swim area in the marked channel of the Florida Intracoastal Waterway or within 100 feet of the marked channel.
- Adds public nuisance vessels to the definition of abandoned property.

- Places liability for costs of vessel removal, storage, destruction, and disposition on the owner or responsible party after notice is given.
- Authorizes FWC law enforcement officers to use drones to manage and eradicate invasive plants or animals on public lands and to suppress and mitigate wildfire threats.

The bill will have an indeterminate fiscal impact on the FWC as the derelict vessel removal grants to local governments will be subject to appropriation.

Most Recent Action: Subcommittee Recommendation: Favorable with CS by Appropriations Subcommittee on Agriculture, Environment, and General Government; 9 Yeas, 0 Nays

House Bill 323: The Florida Fish and Wildlife Conservation Commission (FWC) is the agency responsible for regulating boating, wild animal life, fresh water aquatic life, and marine life in the state.

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public state waters; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the property owner. It is unlawful to store, leave, or abandon a derelict vessel in Florida. In addition, current law prohibits a vessel that is at risk of becoming derelict from anchoring, mooring, or occupying state waters. A vessel that has been the subject of three or more at-risk violations within an 18-month period is deemed a public nuisance.

The bill expands the types of vessels that may be considered at-risk vessels by authorizing an FWC or law enforcement officer to determine that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted structure or mooring. The bill also expands the definition of “abandoned property” to include vessels that have been declared a public nuisance to clarify that the laws and procedures that apply to abandoned property also apply to such vessels.

The bill specifies that an owner or party responsible for a vessel declared a public nuisance who does not remove the vessel within 21 days after a notice directing the removal is placed on the vessel is liable for all costs of removal, storage, destruction, and disposal of the vessel. In addition, the bill specifies that grants provided to local governments for the removal, storage, destruction, and disposal of derelict vessels may also be used for the removal, storage, destruction, and disposal of vessels declared a public nuisance.

The bill prohibits municipalities and counties from establishing public bathing beach or swim areas in whole or in part within the marked channel of the Florida Intracoastal Waterway or within 100 feet of any portion of the marked channel. The bill also authorizes a person to operate a human-powered vessel within the waterway when participating in certain club athletic teams or sports affiliated with an educational institution.

The bill authorizes a law enforcement employee of FWC or the Florida Forest Service to use drones for the purposes of managing and eradicating invasive exotic plants or animals on public lands and suppressing and mitigating wildfire threats.

The bill does not appear to have a fiscal impact on the state or local governments.

Most Recent Action: Favorable with CS by Environment, Agriculture & Flooding Subcommittee; 17 Yeas, 0 Nays

Attached documents: PCS/CS/SB 494 + Staff Analysis; CS/HB 323 + Staff Analysis

// MOTORBOAT ENGINE CUTOFF SWITCHES // VESSEL SAFETY EQUIP.

Senate Bill 606 // Sen. Ileana Garcia // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 493 // Rep. Adam Botana // Referred to: Environment, Agriculture & Flooding Subcommittee; Criminal Justice & Public Safety Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 606: SB 606 creates the “Boating Safety Act of 2022.”

Relating to liveries, the bill:

- Requires a no-cost, annual livery permit, effective January 1, 2023.
- Requires liveries to implement certain safety requirements.
- Adds penalties for violations of livery requirements.

The bill increases or adds penalties for noncriminal infractions of vessel safety laws. It increases the additional civil penalty for noncriminal infractions of vessel laws from \$50 to \$100. It directs certain penalties to the Marine Resource Conservation Trust Fund (MRCTF) to supplement law enforcement activities.

Relating to boating safety programs, the bill:

- Adds a \$500 fine for certain vessel operators.
- Requires FWC to maintain a program to ensure compliance with mandatory boating safety education requirements.
- Creates the Illegal Boating Strike Team to enhance law enforcement activities.

The bill requires a physical residential or business address for vessel registration applicants, with a limited exception for live-aboard vessel owners.

The bill provides appropriations to create the Illegal Boating Strike Team, enhance compliance with mandatory boating safety education requirements, and implement the no-cost livery permitting requirement.

Most Recent Action: Favorable by Environment and Natural Resources; 6 Yeas, 0 Nays

House Bill 493: Revises provisions relating to boating collisions & accidents; liveries & livery permits; boating safety education courses; vessel registrations & title transfers; & related rules, fees, fines, & penalties; provides appropriation & positions for FWCC Illegal Boating Strike Team.

Most Recent Action: Referred to Environment, Agriculture & Flooding Subcommittee; Criminal Justice & Public Safety Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

Attached documents: SB 606 (as filed) + Staff Analysis; HB 493 (as filed)

// YACHT AND SHIP BROKERS' ACT

Senate Bill 820 // Sen. Ed Hooper // Referred to: Regulated Industries; Commerce and Tourism; Rules

House Bill 529 // Rep. Chip LaMarca // Referred to: Regulatory Reform Subcommittee; State Administration & Technology Appropriations Subcommittee; Commerce Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 820: Revising the penalties for persons operating a vessel involved in an accident or injury who leave the scene of the accident or injury under certain circumstances; providing graduated penalties depending on the level of damage to property or person; providing a mandatory minimum sentence for a person who willfully commits such violation resulting in the death of another while boating under the influence; providing that a person commits boating under the influence manslaughter when their impaired operation of a vessel causes the death of an unborn child; revising the definition of the term "vessel homicide" to include the killing of an unborn child by causing injury to the mother by operation of a vessel in a reckless manner under certain circumstances, etc.

Most Recent Action: Referred to Environment and Natural Resources; Criminal Justice; Rules

House Bill 529: Provides visiting broker is not required to be licensed under certain circumstances; requires DBPR to deny license to applicant under certain circumstances; requires person to demonstrate that he or she has been directly involved in specified number of transactions or certify that he or she has completed specified number of continuing education units to be licensed as broker; requires division to create & publish complaint form; provides disciplinary actions against licensed broker or salesperson.

Most Recent Action: Referred to Regulatory Reform Subcommittee; State Administration & Technology Appropriations Subcommittee; Commerce Committee

Attached documents: SB 820 (as filed); HB 529 (as filed)

// RESIDENTIAL PROPERTY RIPARIAN RIGHTS

Senate Bill 840 // Sen. Ben Albritton // Referred to: Environment and Natural Resources; Judiciary; Rules

House Bill 841 // Rep. Nick DiCeglie // Referred to: Civil Justice & Property Rights Subcommittee; Environment, Agriculture & Flooding Subcommittee; Judiciary Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 840: SB 840 requires land surveyors to give a preference to the prolongation-of-property-line method of establishing the boundaries of a residential property owner's riparian rights along a channel, unless doing so would result in an inequitable apportionment of the riparian rights at issue. In connection with this preference, the bill defines the terms "channel" and "prolongation-of-property-line method"; limits the scope of the preference to riparian waters only (not littoral waters, such as a lake, an ocean, or a gulf); and provides that the preference only applies when establishing the boundaries of riparian rights after July 1, 2022.

The bill also provides that in a civil action relating to the riparian rights of a residential dock owner, when such rights are exercised with all appropriate environmental and regulatory approvals and permits, the court must award reasonable attorney fees and costs to the defendant if the defendant is the prevailing party.

Most Recent Action: On Committee agenda - Judiciary, 01/24/22, 3:00 pm, 412 K

House Bill 841: Requires land surveyors to give preference to using prolongation-of-property-line method to establish property owner's riparian rights along channel; requires courts to award reasonable attorney fees & costs to prevailing party in civil actions.

Most Recent Action: Referred to Civil Justice & Property Rights Subcommittee; Environment, Agriculture & Flooding Subcommittee; Judiciary Committee

Attached documents: SB 840 (as filed) + Staff Analysis; HB 841 (as filed)

// BOATING AND VESSEL SAFETY

Senate Bill 1650 // Sen. Joe Gruters // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 701 // Rep. Fiona McFarland // Referred to: Tourism, Infrastructure & Energy Subcommittee; Environment, Agriculture & Flooding Subcommittee; Commerce Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1650: 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; requiring instructors of water sports and activities to wear engine cutoff switches under certain conditions, etc.

Most Recent Action: Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 701: The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, and conserves the fish and wildlife resources within the state. Within the FWC, the Division of Law Enforcement enforces boating rules and regulations, coordinates boating safety campaigns and education, and investigates boating accidents.

Any person born on or after January 1, 1988, who wishes to operate a vessel powered by a motor 10 horsepower or greater must complete a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA). The NASBLA provides minimum standards which are reviewed every five years and apply to all basic boating courses across the U.S. and its territories.

In 2018, federal law went into effect requiring operators of vessels less than 26 feet in length and with three or more horsepower to employ an engine cut-off switch if installed on the vessel. Florida has a similar law but with regard only to jet skis.

The bill may be cited as “Ethan’s Law.”

The bill requires that FWC include as components in boating safety education campaigns and education material, as appropriate, the following:

- The dangers of passengers sitting in areas not designed and designated for seating.
- The operation of a boat with persons in the water nearby.
- The dangers of starting a vessel with the engine in gear.
- The risks of leaving a vessel running while passengers are boarding or disembarking.

- The proper use and benefits of an engine cut-off switch for motorboats and personal watercrafts.

The bill also requires that operators of vessels used in the instruction of water sports or activities use an engine cut-off switch and wear an operative engine cut-off switch link when people participating in the water sport or activity are in the water.

The bill does not have an impact on state or local government revenues. The bill does not have an impact on local government expenditures. The bill may have an insignificant fiscal impact on state government expenditures.

The bill provides an effective date of July 1, 2022.

Most Recent Action: Favorable with CS by Tourism, Infrastructure & Energy Subcommittee; 18 Yeas, 0 Nays

Attached documents: SB 1650 (as filed); CS/HB 701 + Staff Analysis

// VESSEL ANCHORING

Senate Bill 1432 // Sen. Ana Maria Rodriguez // Referred to: Environment and Natural Resources; Community Affairs; Rules

House Bill 1065 // Rep. Jim Mooney // Referred to: Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1432: CS/SB 1432 amends statutes relating to vessel anchoring and mooring. The bill provides that approved and permitted moorings or mooring fields in Monroe County have a 10 year limit on general tenancies and that a sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field, or limit the tenancy of a vessel, because it is an established domicile or a primary residence.

The bill clarifies that Monroe County is designated as an anchoring limitation area in which vessels anchored on waters of the state within the county and within 10 linear nautical miles of a public mooring field or designated anchoring area must:

- ☐ Pull anchor,
- ☐ Move under their own power, and
- ☐ Re-anchor a certain distance away or in a different designated anchoring area.

This must occur at least once every 90 days. The requirement does not apply to vessels moored

to approved and permitted moorings, or to domiciled vessels on the waters of the state within the county, until at least 100 new moorings are available for public use within 1 mile of Key West Bight City Dock. The bill removes the provisions requiring the county to approve of a certain number of moorings at certain locations.

The bill requires the Fish and Wildlife Conservation Commission to consult with Monroe County and the Florida Keys National Marine Sanctuary to establish designated anchoring areas throughout the county that meet certain criteria.

The bill requires certain vessels on the waters of the state within Monroe County that are equipped with a marine sanitation device to maintain a record of the date and location of each pump-out of the device, which must occur every 30 days, for one year after the date of the pumpout.

Most Recent Action: Favorable with CS by Environment and Natural Resources; 5 Years, 0 Days

House Bill 1065: Provides tenancy conditions for certain moorings & mooring fields in Monroe County; provides relocation & reanchoring requirements for vessels anchored on waters of state within Monroe County; directs FWCC, in consultation with certain entities, to establish designated anchoring areas throughout Monroe County; removes provisions requiring Monroe County to approve certain moorings; requires certain vessels equipped with marine sanitation devices to maintain pumpout records.

Most Recent Action: Referred to Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

Attached documents: CS/SB 1432 + Staff Analysis; HB 1065 (as filed)

// VESSEL SAFETY FLAGS

Senate Bill 1546 // Sen. Dennis Baxley // Referred to: Environment and Natural Resources; Community Affairs; Rules

House Bill 1225 // Rep. Thad Altman // Referred to: Environment, Agriculture & Flooding Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1546: Removing the requirement that airboats be equipped with masts or flagpoles bearing certain safety flags; prohibiting the operation and anchoring of vessels without masts or flagpoles bearing certain safety flags under specified conditions, etc.

Most Recent Action: Referred to Environment and Natural Resources; Community Affairs; Rules

House Bill 1225: Removes requirement that airboats be equipped with masts or flagpoles bearing certain safety flags; prohibits operation & anchoring of vessels without masts or flagpoles bearing certain safety flags under specified conditions; provides penalties.

Most Recent Action: Referred to Environment, Agriculture & Flooding Subcommittee; State Affairs Committee

Attached documents: SB 1546 (as filed); HB 1225 (as filed)

// LOCAL REGULATION OF VESSELS

House Bill 1265 // Rep. Mike Caruso // Referred to: Environment, Agriculture & Flooding Subcommittee; Criminal Justice & Public Safety Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

House Bill 1265: Authorizes local governments to regulate the anchoring of certain vessels.

Most Recent Action: Referred to Environment, Agriculture & Flooding Subcommittee; Local Administration & Veterans Affairs Subcommittee; State Affairs Committee

Attached documents: HB 1265 (as filed)

// OFFICE OF THE BLUE ECONOMY

Senate Bill 1454 // Sen. Lorraine Ausley // Referred to: Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

House Bill 1081 // Rep. Kelly Skidmore // Referred to: Tourism, Infrastructure & Energy Subcommittee; Infrastructure & Tourism Appropriations Subcommittee; Commerce Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 1454: Establishing the office within the Department of Economic Opportunity; defining the term “blue economy”; providing duties of the office; requiring the Office of Economic and Demographic Research to conduct a biennial evaluation of the blue economy for inclusion in a certain assessment, etc.

Most Recent Action: Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

House Bill 1081: Establishes Office of the Blue Economy within DEO; provides duties of office; requires EDR to conduct biennial evaluation of blue economy for inclusion in certain assessment.

Most Recent Action: Referred to Tourism, Infrastructure & Energy Subcommittee; Infrastructure & Tourism Appropriations Subcommittee; Commerce Committee

Attached documents: SB 1454 (as filed); HB 1081 (as filed)

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We appreciate the opportunity to be your voice in Tallahassee!

By the Committee on Environment and Natural Resources; and
Senator Rodriguez

592-02072-22

2022198c1

A bill to be entitled

An act relating to water resources management;
amending s. 253.03, F.S.; authorizing the Board of
Trustees of the Internal Improvement Trust Fund to
grant easements on sovereignty submerged lands for
specified mitigation banks under certain conditions;
providing construction; requiring the Department of
Environmental Protection to adopt and modify specified
rules; providing requirements for such rulemaking;
requiring the department, in consultation with the
water management districts, to include such rulemaking
in any active rulemaking process or to complete such
rule development within a specified timeframe;
amending s. 403.813, F.S.; exempting certain docks on
recorded easements from certain permit and
verification requirements; requiring authorization for
certain docks to use submerged lands upon approval of
the board; providing that the compliance of certain
structures associated with a dock on a parcel of land
with certain provisions creates a presumption of
compliance with certain environmental impact
requirements; removing provisions authorizing local
governments to require permits for certain floating
vessel platforms; revising the purposes for which
local governments may require one-time registration of
such platforms; defining the term "local government";
providing an effective date.

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

592-02072-22

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Section 1. Subsection (17) is added to section 253.03, Florida Statutes, to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(17) The board of trustees may grant easements on sovereignty submerged lands for mitigation banks that are permitted under s. 373.4136 to ensure the protection and restoration of natural resources and to offset the unavoidable impacts of projects when mitigation banks meet the public interest criteria under this chapter and chapter 258. This subsection does not prohibit mitigation to offset impacts to seagrass or other habitats on sovereignty submerged lands, upon meeting the public interest criteria under this chapter and chapter 258.

Section 2. The Department of Environmental Protection shall adopt and modify rules adopted pursuant to ss. 373.4136 and 373.414, Florida Statutes, to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation permitted under ss. 373.4136 and 373.414, Florida Statutes. The department, in consultation with the water management districts, shall include the rulemaking required by this section in existing active rulemaking, or shall complete rule development by June 30, 2023.

Section 3. Paragraphs (b) and (s) of subsection (1) of section 403.813, Florida Statutes, are amended to read:

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or

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chapter 25270, 1949, Laws of Florida, and a local government may not require a person claiming this exception to provide further department verification, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, this subsection does not relieve an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(b) The installation and repair of mooring pilings and dolphins associated with private docking facilities or piers and the installation of private docks, piers, and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat, any of which docks:

1. Has 500 square feet or less of over-water surface area for a dock located in an area designated as Outstanding Florida Waters or 1,000 square feet or less of over-water surface area for a dock located in an area that is not designated as Outstanding Florida Waters;

2. Is constructed on or held in place by pilings or is a floating dock constructed so as not to involve filling or dredging other than that necessary to install the pilings;

3. May not substantially impede the flow of water or create a navigational hazard;

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88 4. Is used for recreational, noncommercial activities
89 associated with the mooring or storage of boats and boat
90 paraphernalia; and

91 5. Is the sole dock constructed pursuant to this exemption
92 as measured along the shoreline for a distance of 65 feet,
93 unless the parcel of land, recorded easement, or individual lot
94 as platted is less than 65 feet in length along the shoreline,
95 in which case one exempt dock may be allowed per parcel,
96 easement, or lot. Such docks shall be granted authorization for
97 the use of submerged lands upon approval by the Board of
98 Trustees of the Internal Improvement Trust Fund.

99
100 This paragraph does not prohibit the department from taking
101 appropriate enforcement action pursuant to this chapter to abate
102 or prohibit any activity otherwise exempt from permitting
103 pursuant to this paragraph if the department can demonstrate
104 that the exempted activity has caused water pollution in
105 violation of this chapter.

106 (s) The construction, installation, operation, or
107 maintenance of floating vessel platforms or floating boat lifts,
108 provided that such structures:

109 1. Float at all times in the water for the sole purpose of
110 supporting a vessel so that the vessel is out of the water when
111 not in use;

112 2. Are wholly contained within a boat slip previously
113 permitted under ss. 403.91-403.929, 1984 Supplement to the
114 Florida Statutes 1983, as amended, or part IV of chapter 373, or
115 do not exceed a combined total of 500 square feet, or 200 square
116 feet in an Outstanding Florida Water, when associated with a

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dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;

3. Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in s. 253.141;

4. Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and

5. Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, are ~~may~~ not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government. Structures associated with a dock on a parcel of land under subparagraph 2. which comply with

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146 this paragraph create a presumption of compliance with any
147 requirement to minimize adverse environmental impacts. A local
148 government ~~governments~~ may require a permit either-permitting or
149 one-time registration of floating vessel platforms to be
150 attached to a bulkhead on a parcel of land where there is no
151 other docking structure as necessary to ensure compliance with
152 local ordinances, codes, or regulations. A local government
153 ~~governments~~ may require a ~~either-permitting~~ or one-time
154 registration of all other floating vessel platforms only as
155 necessary to ensure compliance with the exemption criteria in
156 this section~~;~~ or to ensure compliance with local electrical or
157 plumbing ordinances, codes ~~that,~~ ~~or regulations relating to~~
158 ~~building or zoning,~~ which are no more stringent than the
159 exemption criteria in this section or address subjects other
160 than subjects addressed by the exemption criteria in this
161 section; and to ensure proper installation, maintenance, and
162 precautionary or evacuation action following a tropical storm or
163 hurricane watch of a floating vessel platform or floating boat
164 lift that is proposed to be attached to a bulkhead or parcel of
165 land where there is no other docking structure. The exemption
166 provided in this paragraph is ~~shall be~~ in addition to the
167 exemption provided in paragraph (b). The department shall adopt
168 a general permit by rule for the construction, installation,
169 operation, or maintenance of those floating vessel platforms or
170 floating boat lifts that do not qualify for the exemption
171 provided in this paragraph but do not cause significant adverse
172 impacts to occur individually or cumulatively. The issuance of
173 such general permit ~~shall~~ also constitutes ~~constitute~~ permission
174 to use or occupy lands owned by the Board of Trustees of the

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Internal Improvement Trust Fund. A local government ~~governments~~ may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. A local government ~~governments~~ may require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure. As used in this paragraph, the term "local government" includes a charter county, a county that is required to implement a manatee protection plan pursuant to s. 379.2431(2)(t), or a county or municipality that establishes and administers a local pollution control program under s. 403.182.

Section 4. This act shall take effect upon becoming a law.

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1 A bill to be entitled
2 An act relating to water resources management;
3 amending s. 253.03, F.S.; authorizing the Board of
4 Trustees of the Internal Improvement Trust Fund to
5 grant easements on sovereignty submerged lands for
6 specified mitigation banks under certain conditions;
7 providing construction; directing the Department of
8 Environmental Protection to create and modify
9 specified rules; providing requirements for such
10 rulemaking; amending s. 403.813, F.S.; exempting
11 certain docks on recorded easements from certain
12 permit and verification requirements; granting certain
13 docks authorization to use submerged lands upon
14 approval of the board; providing that specified
15 structures associated with a dock create a presumption
16 of compliance with certain environmental impact
17 requirements; providing a definition; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (17) is added to section 253.03,
23 Florida Statutes, to read:

24 253.03 Board of trustees to administer state lands; lands
25 enumerated.—

26 (17) The board of trustees may grant easements on
27 sovereignty submerged lands for mitigation banks that are
28 permitted under s. 373.4136 to ensure the protection and
29 restoration of natural resources and to offset the unavoidable
30 impacts of projects when mitigation banks meet the public
31 interest criteria under chapters 253 and 258. This subsection
32 does not prohibit mitigation to offset impacts to seagrass or
33 other habitats on sovereignty submerged lands, upon meeting the
34 public interest criteria under chapters 253 and 258.

35 Section 2. The Department of Environmental Protection
36 shall adopt and modify rules adopted pursuant to ss. 373.4136
37 and 373.414 to ensure that required financial assurances are
38 equivalent and sufficient to provide for the long-term
39 management of mitigation permitted under ss. 373.4136 and
40 373.414. The department, in consultation with the water
41 management districts, shall include the rulemaking required by
42 this section in existing active rulemaking, or shall complete
43 rule development by June 30, 2023.

44 Section 3. Paragraphs (b) and (s) of subsection (1) of
45 section 403.813, Florida Statutes, are amended to read:

46 403.813 Permits issued at district centers; exceptions.—

47 (1) A permit is not required under this chapter, chapter
48 373, chapter 61-691, Laws of Florida, or chapter 25214 or
49 chapter 25270, 1949, Laws of Florida, and a local government may
50 not require a person claiming this exception to provide further

51 department verification, for activities associated with the
52 following types of projects; however, except as otherwise
53 provided in this subsection, this subsection does not relieve an
54 applicant from any requirement to obtain permission to use or
55 occupy lands owned by the Board of Trustees of the Internal
56 Improvement Trust Fund or a water management district in its
57 governmental or proprietary capacity or from complying with
58 applicable local pollution control programs authorized under
59 this chapter or other requirements of county and municipal
60 governments:

61 (b) The installation and repair of mooring pilings and
62 dolphins associated with private docking facilities or piers and
63 the installation of private docks, piers, and recreational
64 docking facilities, or piers and recreational docking facilities
65 of local governmental entities when the local governmental
66 entity's activities will not take place in any manatee habitat,
67 any of which docks:

68 1. Has 500 square feet or less of over-water surface area
69 for a dock located in an area designated as Outstanding Florida
70 Waters or 1,000 square feet or less of over-water surface area
71 for a dock located in an area that is not designated as
72 Outstanding Florida Waters;

73 2. Is constructed on or held in place by pilings or is a
74 floating dock constructed so as not to involve filling or
75 dredging other than that necessary to install the pilings;

76 3. May not substantially impede the flow of water or
77 create a navigational hazard;

78 4. Is used for recreational, noncommercial activities
79 associated with the mooring or storage of boats and boat
80 paraphernalia; and

81 5. Is the sole dock constructed pursuant to this exemption
82 as measured along the shoreline for a distance of 65 feet,
83 unless the parcel of land, recorded easement, or individual lot
84 as platted is less than 65 feet in length along the shoreline,
85 in which case one exempt dock may be allowed per parcel,
86 easement, or lot. Such docks shall be granted authorization for
87 the use of submerged lands upon approval by the Board of
88 Trustees of the Internal Improvement Trust Fund.

89
90 This paragraph does not prohibit the department from taking
91 appropriate enforcement action pursuant to this chapter to abate
92 or prohibit any activity otherwise exempt from permitting
93 pursuant to this paragraph if the department can demonstrate
94 that the exempted activity has caused water pollution in
95 violation of this chapter.

96 (s) The construction, installation, operation, or
97 maintenance of floating vessel platforms or floating boat lifts,
98 provided that such structures:

99 1. Float at all times in the water for the sole purpose of
100 supporting a vessel so that the vessel is out of the water when

101 not in use;

102 2. Are wholly contained within a boat slip previously
103 permitted under ss. 403.91-403.929, 1984 Supplement to the
104 Florida Statutes 1983, as amended, or part IV of chapter 373, or
105 do not exceed a combined total of 500 square feet, or 200 square
106 feet in an Outstanding Florida Water, when associated with a
107 dock that is exempt under this subsection or associated with a
108 permitted dock with no defined boat slip or attached to a
109 bulkhead on a parcel of land where there is no other docking
110 structure;

111 3. Are not used for any commercial purpose or for mooring
112 vessels that remain in the water when not in use, and do not
113 substantially impede the flow of water, create a navigational
114 hazard, or unreasonably infringe upon the riparian rights of
115 adjacent property owners, as defined in s. 253.141;

116 4. Are constructed and used so as to minimize adverse
117 impacts to submerged lands, wetlands, shellfish areas, aquatic
118 plant and animal species, and other biological communities,
119 including locating such structures in areas where seagrasses are
120 least dense adjacent to the dock or bulkhead; and

121 5. Are not constructed in areas specifically prohibited
122 for boat mooring under conditions of a permit issued in
123 accordance with ss. 403.91-403.929, 1984 Supplement to the
124 Florida Statutes 1983, as amended, or part IV of chapter 373, or
125 other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, are ~~may not be~~ subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government. Structures associated with a dock on a parcel of land under subparagraph 2. which comply with this subsection create a presumption of compliance with any requirement to minimize adverse environmental impacts. A local government ~~governments~~ may require a permit ~~either permitting~~ or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations. A local government ~~governments~~ may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in this section or address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance,

151 and precautionary or evacuation action following a tropical
152 storm or hurricane watch of a floating vessel platform or
153 floating boat lift that is proposed to be attached to a bulkhead
154 or parcel of land where there is no other docking structure. The
155 exemption provided in this paragraph is ~~shall be~~ in addition to
156 the exemption provided in paragraph (b). The department shall
157 adopt a general permit by rule for the construction,
158 installation, operation, or maintenance of those floating vessel
159 platforms or floating boat lifts that do not qualify for the
160 exemption provided in this paragraph but do not cause
161 significant adverse impacts to occur individually or
162 cumulatively. The issuance of such general permit ~~shall~~ also
163 constitutes ~~constitute~~ permission to use or occupy lands owned
164 by the Board of Trustees of the Internal Improvement Trust Fund.
165 A local government ~~governments~~ may not impose a more stringent
166 regulation, permitting requirement, registration requirement, or
167 other regulation covered by such general permit. A local
168 government ~~governments~~ may require either permitting or one-time
169 registration of floating vessel platforms as necessary to ensure
170 compliance with the general permit in this section; to ensure
171 compliance with local ordinances, codes, or regulations relating
172 to building or zoning that are no more stringent than the
173 general permit in this section; and to ensure proper
174 installation and maintenance of a floating vessel platform or
175 floating boat lift that is proposed to be attached to a bulkhead

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176 or parcel of land where there is no other docking structure. As
177 used in this paragraph, the term "local government" includes a
178 charter county, a county that is required to implement a manatee
179 protection plan pursuant to s. 379.2431(2)(t), or a county or
180 municipality that establishes and administers a local pollution
181 control program under s. 403.182.

182 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 349 Water Resources Management
SPONSOR(S): Environment, Agriculture & Flooding Subcommittee, Sirois
TIED BILLS: **IDEN./SIM. BILLS:** SB 198

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee	13 Y, 4 N, As CS	Gawin	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Department of Environmental Protection (DEP) regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs). ERPs are required for development or construction activities typically involving the dredging or filling of surface waters, construction of flood protection facilities, building dams or reservoirs, or any other activities that affect state waters. Some projects are exempt from the requirement to obtain an ERP if they meet specific statutory restrictions. Environmental impact mitigation is required under certain circumstances to offset the adverse impacts to surface waters resulting from the construction activities allowed by an ERP.

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity to provide mitigation for unavoidable environmental impacts within a defined region referred to as a mitigation service area. A mitigation bank consists of a wetland, stream, or other aquatic resource area that has been restored, established, or preserved to offset such environmental impacts.

Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters. The Board of Trustees of the Internal Improvement Trust Fund (Board) is responsible for determining whether a sale of sovereign submerged lands or a permit related to an activity conducted on sovereign submerged lands is within the public interest on a case-by-case basis.

The bill authorizes the Board to grant easements on sovereignty submerged lands for mitigation banks to ensure the protection and restoration of natural resources and to offset the unavoidable impacts of projects when mitigation banks meet the public interest criteria related to state owned lands.

The bill requires DEP to adopt and modify rules related to mitigation to ensure that the required financial assurances are equivalent and sufficient to provide for long-term management of permitted mitigation. Additionally, the bill requires DEP, in consultation with Water Management Districts, to include the rulemaking required by the bill in existing active rulemaking, or to complete rule development by June 30, 2023.

The bill expands the ERP permitting exemption for certain private and local government-owned docks by exempting a dock that measures a distance of less than 65 feet along the shoreline if the dock is the only one on the easement. The bill specifies that such docks must be granted authorization for the use of submerged lands upon approval by the Board. Additionally, the bill creates a presumption of compliance with any requirement to minimize adverse environmental impacts for structures associated with a dock on a parcel of land that complies with certain ERP permitting exemption requirements.

The bill may have an indeterminate fiscal impact on the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Environmental Resource Permits

The Department of Environmental Protection (DEP) regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs). ERPs are required for development or construction activities typically involving the dredging or filling of surface waters, construction of flood protection facilities, building dams or reservoirs, or any other activities that affect state waters.¹ ERP applications are processed by either DEP or one of the state's water management districts (WMDs) in accordance with the division of responsibilities specified in operating agreements between DEP and the WMDs.²

ERP Exceptions

Current law provides exceptions from ERP³ permitting for certain types of projects.⁴ Generally, these permit exceptions restrict how the project is undertaken, provide size and location requirements, or provide for maintenance, repair, or replacement of existing structures.⁵ For example, state law provides exceptions from ERP permitting for the installation of overhead transmission lines with support structures that are not constructed in waters of the state and that do not create a navigational hazard, the installation and maintenance to design specifications of boat ramps on artificial bodies of waters where certain navigational access is provided, and the construction of private docks of 1,000 square feet or less of over-water surface area and seawalls in artificially created waterways when such construction will not violate existing water quality standards, impede navigation, or affect flood control.⁶ These exceptions do not relieve an applicant from obtaining permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund (Board) or a WMD or from complying with local pollution control programs or other requirements of local governments.⁷

ERP Exceptions for Docks

Included among the projects that are exempt from ERP permitting requirements is the installation and repair of mooring pilings and dolphins associated with private docking facilities or piers; the installation of private docks, piers, and recreational docking facilities; or the installation of piers and recreational docking facilities of local governmental entities when the entity's activities will not take place in any manatee habitat.⁸ This exemption applies when the dock:

- Has 500 square feet or less of over-water surface area for a dock located in an area designated as Outstanding Florida Waters or 1,000 square feet or less of over-water surface area for a dock located in an area that is not designated as Outstanding Florida Waters;
- Is constructed on or held in place by pilings or is a floating dock constructed so as not to involve filling or dredging other than that necessary to install the pilings;
- May not substantially impede the flow of water or create a navigational hazard;
- Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and

¹ South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Nov. 22, 2021).

² DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Nov. 22, 2021).

³ See chs. 373 and 403, F.S.

⁴ Section 403.813(1), F.S.

⁵ See s. 403.813(1)(a)-(v), F.S., see also r. 62-330.051, F.A.C.

⁶ *Id.*

⁷ Section 403.813(1), F.S.

⁸ Section 403.813(1)(b), F.S.

- Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case one exempt dock may be allowed per parcel or lot.

ERP Exceptions for Floating Structures

Additionally, there is an ERP permit exemption for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

- Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;
- Are wholly contained within a previously permitted boat slip or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt from ERP permitting or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;
- Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners;
- Are constructed and used so as to minimize the adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and
- Are not constructed in areas specifically prohibited for boat mooring under conditions of an ERP permit or other form of authorization issued by a local government.⁹

Structures that qualify for this exemption are not required to obtain permission to use or occupy lands owned by the Board, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure. These structures may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government.¹⁰

Environmental Impact Mitigation

Mitigation Regulations

Mitigation serves as the third step in a sequence of permitting actions¹¹ that must be followed to offset the adverse impacts to surface waters resulting from the construction activities allowed by an ERP. When evaluating a proposed project for permitting, the Clean Water Act first requires DEP, as the permitting agency, to determine if the project would have an adverse impact. If the project has an adverse impact and there is a practicable alternative, the project must avoid the adverse impacts altogether and be reconfigured using the alternative. If impacts cannot be avoided, appropriate and practicable steps must be taken to minimize the impact. If any unavoidable impacts remain, they require appropriate and practicable mitigation.¹²

Mitigation usually consists of restoration, enhancement, creation, preservation, or a combination thereof and is accomplished by providing onsite mitigation, offsite mitigation, or purchasing mitigation credits from permitted mitigation banks. The ecological benefits of mitigation compensate for the functional loss resulting from the ERP impact.¹³ The Uniform Mitigation Assessment Method (UMAM) provides a standardized procedure for assessing the ecological functions provided by surface waters, the amount that those functions are reduced by a proposed impact, and the amount of mitigation necessary to offset that loss. The UMAM evaluates functions by considering an ecological community's current condition, hydrologic connection, uniqueness, location, fish and wildlife utilization, time lag, and

⁹ Section 403.813(1)(s), F.S., Rule 62-330.428, F.A.C.

¹⁰ *Id.*

¹¹ 40 C.F.R. § 230.

¹² EPA, *Wetlands Compensatory Mitigation*, available at https://www.epa.gov/sites/production/files/2015-08/documents/compensatory_mitigation_factsheet.pdf (last visited Nov. 19, 2021).

¹³ DEP, *Mitigation*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation> (last visited Nov. 19, 2021).

mitigation risk. The UMAM is also used to determine the degree of improvement in ecological value of proposed mitigation bank activities.¹⁴

Mitigation Banking

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity (banker) to provide mitigation for unavoidable environmental impacts within a defined region referred to as a mitigation service area. A mitigation bank consists of a wetland, stream, or other aquatic resource area that has been restored, established, or preserved to offset such environmental impacts. The bank is the site itself, and the currency sold by the banker to the ERP applicant is a credit. The number of potential credits permitted for the bank and the credit required for ERPs are determined by DEP or a WMD. Mitigation banks are authorized by a state permit, which is issued by either a WMD or DEP depending on the location of the bank and the activity it mitigates, and by the United States Army Corps of Engineers.¹⁵

To obtain a mitigation bank permit, the applicant must provide reasonable assurance that the mitigation bank will:

- Improve ecological conditions of the regional watershed;
- Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;
- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the long-term viability of the mitigation bank due to unsuitable land uses or conditions.¹⁶

The applicant must also provide reasonable assurances that:

- Any surface water management system that will be constructed, altered, operated, maintained, abandoned, or removed within a mitigation bank will meet the requirements of part IV of ch. 373, F.S., which regulates management and storage of surface waters, and adopted rules;
- The applicant has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and
- The applicant can meet the financial responsibility requirements prescribed for mitigation banks.¹⁷

A banker applying for a permit to establish a mitigation bank must provide documentation of financial responsibility and financial assurance mechanisms for the construction and implementation of the bank, and the perpetual management and maintenance of the bank.¹⁸ This can be achieved by obtaining a surety or performance bond, irrevocable letter of credit, or insurance policy. The banker may also create an escrow account, standby escrow account, trust fund, or standby trust fund to fulfill this requirement. Fiscal responsibility mechanisms can be paid to a DEP designee, standby trust, or standby escrow.¹⁹ The banker is required to demonstrate continuous fiscal responsibility until all of the permit conditions are completely satisfied and approved for release by DEP.²⁰ Further, the financial responsibility mechanisms must guarantee that the banker will perform all of its obligations under the permit.²¹

Seagrasses

¹⁴ DEP, *The Uniform Mitigation Assessment Method (UMAM)*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/uniform-mitigation-assessment> (last visited Nov. 19, 2021).

¹⁵ DEP, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Nov. 19, 2021).

¹⁶ Section 373.4136(1), F.S.; r. 62-342.400, F.A.C.

¹⁷ *Id.*; see also r. 62-340.700, F.A.C.

¹⁸ Rule 62-340.700, F.A.C.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

Seagrasses are grass-like flowering plants that live completely submerged in marine and estuarine waters.²² Seagrasses occur in protected bays and lagoons as well as in deeper waters along the continental shelf in the Gulf of Mexico.²³ The depth at which seagrasses occur is limited by water clarity because most species require high levels of light.²⁴ Florida's approximately 2.2 million acres of seagrasses perform many significant functions, including maintenance of water clarity, stabilization of the ocean bottom, shelter for marine life, and food for many marine animals and water birds.²⁵

The Board is vested and charged with the duty to acquire, administer, manage, control, supervise, conserve, protect, and dispose of lands owned by the state.²⁶ This duty extends to the preservation and regeneration of seagrass as an essential ecosystem for Florida's oceans, estuaries, and shorelines.²⁷ Current law requires the Board to manage state-owned lands in a manner that serves the public interest.²⁸

Sovereign Submerged Lands

Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water, or beneath tidally-influenced waters.²⁹ Pursuant to Article X, section 11 of the Florida Constitution, the state holds title to land under navigable waters, including beaches below mean high water lines, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest.³⁰ Additionally, the private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.³¹ The Board is responsible for determining whether a sale of sovereign submerged lands or a permit related to an activity conducted on sovereign submerged lands is within the public interest on a case-by-case basis.³² Before conveying sovereign submerged lands, the Board must consider the extent to which such conveyance would interfere with the conservation of fish, marine life and other wildlife, or other natural resources.³³

Effect of the Bill

The bill authorizes the Board to grant easements on sovereignty submerged lands for mitigation banks to ensure the protection and restoration of natural resources and to offset the unavoidable impacts of projects when mitigation banks meet the public interest criteria related to state-owned lands. The bill specifies that it does not prohibit mitigation to offset impacts to seagrass or other habitats on sovereignty submerged lands upon meeting the public interest criteria.

The bill requires DEP to adopt and modify rules related to mitigation to ensure that the required financial assurances are equivalent and sufficient to provide for the long-term management of permitted mitigation. Additionally, the bill requires DEP, in consultation with the WMDs, to include the rulemaking required by the bill in existing active rulemaking, or to complete rule development by June 30, 2023.

The bill expands the ERP permitting exemption for certain private and local government-owned docks by exempting a dock that is constructed on a recorded easement that measures a distance of less than 65 feet along the shoreline if the dock is the only one on the easement. The bill specifies that such docks must be granted authorization for the use of submerged lands upon approval by the Board.

²² DEP, *Florida Seagrasses*, <https://floridadep.gov/rcp/seagrass> (last visited Nov. 19, 2021).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Section 253.03, F.S.

²⁷ Section 253.04(3)(a), F.S.

²⁸ Section 253.034, F.S.

²⁹ DEP, *Sovereign Submerged Lands (SSL) - Proprietary Authority versus Regulatory Authority in Chapter 18-21, F.A.C.*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/sovereign-submerged-lands-ssl> (last visited Nov. 19, 2021).

³⁰ Art. X, Sec. 11, FLA. CONST.

³¹ Art. X, Sec. 11, FLA. CONST.

³² Section 253.12, F.S.

³³ Section 253.12(2)(a), F.S.

The bill creates a presumption of compliance with any requirement to minimize adverse environmental impacts for structures associated with a dock on a parcel of land that complies with certain ERP permitting exemption requirements.

The bill specifies that the term “local government” includes a charter county, a county that is required to implement a manatee protection plan, or a county or municipality that establishes and administers a local pollution control program.

B. SECTION DIRECTORY:

- Section 1. Amends s. 253.03, F.S., to authorize the Board to grant easements on sovereignty submerged lands for mitigation banks.
- Section 2. Creates an unnumbered section of law requiring DEP, in consultation with the WMDs, to adopt and modify rules by June 30, 2023.
- Section 3. Amends s. 403.813, F.S., to allow an exception from ERP permitting requirements for certain docks constructed on recorded easements and to create a presumption of compliance for certain structures.
- Section 4. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate insignificant negative fiscal impact on DEP related to the costs associated with the rulemaking requirements of the bill. These costs can likely be absorbed through current resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate fiscal impact on the private sector by allowing private entities to purchase mitigation credits on sovereign submerged lands, if approved by the Board, to offset their projects' unavoidable impacts to surface waters.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DEP to adopt and modify rules related to mitigation through existing active rulemaking or by June 30, 2023.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On December 1, 2021, the Environment, Agriculture & Flooding Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Clarified that the Board is authorized to grant easements on sovereignty submerged lands for mitigation banks;
- Created a presumption of compliance with any requirement to minimize adverse environmental impacts for structures associated with a dock on a parcel of land that meets certain ERP permit exemption requirements; and
- Specified entities that are included in the term "local government."

This analysis is drafted to the committee substitute as approved by the Environment, Agriculture & Flooding Subcommittee.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 198

INTRODUCER: Senator Rodriguez

SUBJECT: Seagrass Mitigation Banks

DATE: January 14, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Collazo	Rogers	EN	Pre-meeting
2. _____	_____	CA	_____
3. _____	_____	AP	_____

I. Summary:

SB 198 authorizes the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) to establish seagrass mitigation banks to ensure the preservation and regeneration of seagrass and to offset the unavoidable impacts of projects, so long as the seagrass mitigation banks meet the public interest criteria enshrined in state law. The bill clarifies that it does not prohibit mitigation for impacts to seagrass or other habitats on sovereignty or non-sovereignty submerged lands, upon approval of the Board of Trustees.

II. Present Situation:

Seagrasses

Seagrasses are grass-like flowering plants that live completely submerged in marine and estuarine waters.¹ Seagrasses occur throughout the coastal waters in Florida, including in protected bays and lagoons as well as in deeper waters along the continental shelf in the Gulf of Mexico.² The depth at which seagrasses occur is limited by water clarity because most species require high levels of light.³ Seagrasses perform many important functions, including maintaining water clarity, stabilizing the bottom of aquatic habitats, providing habitat for marine life, and providing food for many marine animals and water birds.⁴ There are seven different species of seagrasses found in Florida's waters.⁵

¹ Florida Dep't of Environmental Protection (DEP), *Florida Seagrasses*, <https://floridadep.gov/rcp/seagrass> (last visited Jan. 11, 2022).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* These species are: "Cuban shoal grass (*Halodule wrightii*), turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), star grass (*Halophila engelmannii*), paddle grass (*Halophila decipiens*), Johnson's seagrass (*Halophila johnsonii*), or widgeon grass (*Ruppia maritima*)." Section 253.04(3)(a)1., F.S.

Along Florida's coastline and within its estuaries, there are more than 2 million acres of seagrass.⁶ The state and its partners map and monitor seagrass abundance, and while efforts to promote seagrasses have led to positive outcomes in places like Tampa Bay and Sarasota Bay, certain areas have experienced recent losses of seagrasses, such as Florida's Big Bend, Florida Bay, and the Indian River Lagoon.⁷ Seagrasses face several threats, including events that reduce water clarity and decrease the amount of light reaching the bottom, such as algae blooms, as well as physical damage, such as from boat propeller scarring or dredging.⁸ In many cases a person operating a vessel outside a marked channel that causes "seagrass scarring" within an aquatic preserve commits a noncriminal infraction.⁹

Sovereign Submerged Lands

Sovereign submerged lands are owned by the state and include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line,¹⁰ beneath navigable fresh water or tidally-influenced waters.¹¹ Under the State Constitution, the title to all sovereign submerged lands is held by the state in trust for the people.¹² This generally provides the public with the right to use sovereign submerged lands for traditional recreational purposes such as swimming, boating, and fishing.¹³

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), comprised of the Governor and Cabinet, holds title to all sovereign submerged lands in the state.¹⁴ The Board of Trustees has a duty to preserve and regenerate seagrass in these areas, and the Legislature has recognized seagrasses as essential to the oceans, gulfs, estuaries, and shorelines of the state.¹⁵ The Board of Trustees may sell sovereign submerged lands when it determines it to be in the public interest, and the Board of Trustees may authorize private use of sovereign submerged lands when it determines it to be not contrary to the public interest.¹⁶ The Board of Trustees' consideration of what is in the public interest includes determining to what extent such conveyance would interfere with the conservation of wildlife, marine ecosystems, and other

⁶ Florida Fish and Wildlife Conservation Commission, *Seagrass FAQ*, <https://myfwc.com/research/habitat/seagrasses/information/faq/> (last visited Jan. 11, 2022).

⁷ *Id.*

⁸ *Id.*

⁹ Section 253.04(3), F.S. (2021).

¹⁰ Fla. Admin. Code R. 18-21.003(67). The mean high water line is the point on the shore marking the average height of the high waters over a 19-year period, and it is the boundary between the state-owned foreshore (land alternately covered and uncovered by the tide) and the dry area above the mean high water line that is subject to private ownership. *See ss.* 177.27(14), (15) and 177.28(1), F.S.

¹¹ Fla. Admin. Code R. 18-21.003(67).

¹² FLA. CONST. art. X, s. 11.

¹³ Fla. Admin. Code R. 18-21.004(2)(a); *see also* 5F, LLC v. Hawthorne, 317 So. 3d 220, 223 (Fla. 2d DCA 2021) (identifying the same traditional uses).

¹⁴ Sections 253.03 and 253.12(1), F.S.

¹⁵ Section 253.04(3), F.S.

¹⁶ FLA. CONST. art. X, s. 11; s. 253.12(2), F.S.; *see also* Fla. Admin. Code R. 18-21.003(54). The rule defines public interest as meaning "demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials." Fla. Admin. Code R. 18-21.003(54).

natural resources.¹⁷ If objections are filed and it appears the conveyance of submerged lands would result in the destruction of grass flats suitable as nursery or feeding grounds for marine life, the Board of Trustees must withdraw the lands from sale.¹⁸

Florida law authorizes the Board of Trustees to adopt rules to administer sovereign submerged lands.¹⁹ Chapter 18-21 of the Florida Administrative Code, Sovereign Submerged Lands Management, lists the various forms of authorization necessary for specified activities on sovereign submerged lands.²⁰ The Department of Environmental Protection (DEP) and the Department of Agriculture and Consumer Services (DACS) act as staff to the Board of Trustees in the review of proposed uses of sovereign submerged lands.²¹ DEP is responsible for environmental permitting of activities and water quality protection on sovereign submerged lands, while DACS is responsible for managing aquacultural activities on sovereignty submerged lands.²²

In determining whether an activity is not contrary to the public interest or is in the public interest, DEP must consider and balance the following criteria:

- Whether the activity will adversely affect the public health, safety, or welfare or the property of others;
- Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
- Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
- Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
- Whether the activity will be of a temporary or permanent nature;
- Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of s. 267.061; and
- The current condition and relative value of functions being performed by areas affected by the proposed activity.²³

Mitigation

Federal Mitigation

The U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (USACE) promulgate federal regulations establishing environmental criteria, and mechanisms for compensatory mitigation, under Section 404. The regulations require a permit applicant to take

¹⁷ Section 253.12(2)(a), F.S.

¹⁸ Section 253.12(4)(e), F.S.

¹⁹ Sections 253.03(7) and 253.73, F.S.

²⁰ See Fla. Admin. Code R. 18-21.005.

²¹ DEP, *Sovereign Submerged Lands (SSL) - Proprietary Authority versus Regulatory Authority in Chapter 18-21, F.A.C.*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/sovereign-submerged-lands-ssl> (last visited Jan. 11, 2022); see also Dep't of Agriculture and Consumer Services, *Aquaculture Submerged Land Leasing*, <https://www.fdacs.gov/Agriculture-Industry/Aquaculture/Aquaculture-Submerged-Land-Leasing> (last visited Jan. 11, 2022).

²² Fla. Admin. Code R. 18-21.002(1).

²³ Section 373.414(1)(a), F.S.

all appropriate and practicable steps to avoid and minimize adverse impacts to waters of the U.S.²⁴ For unavoidable impacts, as the last step in a sequence after avoidance and minimization, compensatory mitigation may be required to replace the loss of wetland and aquatic resource functions in the watershed.²⁵

There are three basic types of compensatory mitigation under Section 404:

- Mitigation banks — a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. Mitigation banking is the preferred method of compensatory mitigation under the federal regulations. Reasons for this include that the banks have an approved mitigation plan and financial assurances, credits are not released until specific milestones are achieved, and banks typically involve larger, more ecologically valuable parcels.
- In-lieu fee programs — funds are paid to a governmental or non-profit entity for natural resources management. Similar to a bank, an in-lieu fee program sells credits to permittees whose obligation is then transferred to the in-lieu program sponsor. However, the rules governing in-lieu fee programs are somewhat different, and their operation and use are governed by an in-lieu fee program instrument.
- Permittee-responsible mitigation — activities are undertaken by the permittee, or an authorized agent or contractor, to provide compensatory mitigation for which the permittee retains full responsibility.²⁶

State Mitigation

At the state level, DEP regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs).²⁷ ERPs are required for certain development or construction activities, typically involving the dredging or filling of wetlands or surface waters, construction of flood protection facilities, building dams or reservoirs, or any other activities that affect state waters.²⁸ ERP applications are processed by either DEP or one of the water management districts in accordance with the division of

²⁴ 40 C.F.R. s. 230.91(c); *see generally* 40 C.F.R. pt. 230 and 33 C.F.R. pt. 322. USACE administers permitting under Section 404 of the Clean Water Act, which generally requires a permit for any discharge of dredged or fill material into waters of the U.S., including wetlands. 33 U.S.C. s. 1344 (2021); U.S. Environmental Protection Agency (EPA), *Wetland Regulatory Authority*, available at https://www.epa.gov/sites/production/files/2015-03/documents/404_reg_authority_fact_sheet.pdf (last visited Jan. 11, 2022). In 2020, DEP assumed permitting authority under the State 404 Program for certain “assumed waters,” but USACE will retain such permitting authority for all other waters in the state. DEP, *State 404 Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/state-404-program> (last visited Jan. 11, 2022); DEP, *State 404 Program Applicant’s Handbook*, § 1.1, available at <https://www.flrules.org/gateway/reference.asp?No=Ref-12064> (last visited Jan. 11, 2022).

²⁵ EPA, *Wetlands Compensatory Mitigation*, available at https://www.epa.gov/sites/production/files/2015-08/documents/compensatory_mitigation_factsheet.pdf (last visited Jan. 11, 2022).

²⁶ EPA, *Mechanisms for Providing Compensatory Mitigation under CWA Section 404*, <https://www.epa.gov/cwa-404/mechanisms-providing-compensatory-mitigation-under-cwa-section-404> (last visited Jan. 11, 2022); *see also* 40 C.F.R. s. 290.93(b).

²⁷ DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Jan. 11, 2022).

²⁸ South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Jan. 11, 2022).

responsibilities specified in operating agreements between DEP and the water management districts.²⁹

Florida's ERP criteria generally require that, for proposed activities that will result in adverse impacts to wetland or surface water functions, applicants must implement practicable design modifications to reduce or eliminate such adverse impacts.³⁰ After such requirements have been completed, mitigation is required to offset the adverse impacts.³¹ Mitigation under the ERP program is evaluated in light of the programmatic goal of no net loss of wetland and other surface water functions.³² Mitigation can be conducted on-site, off-site, or through the purchase of credits from a mitigation bank, or through a combination of approaches.³³ Off-site mitigation is preferred when on-site mitigation is not expected to have long-term viability, or when off-site mitigation will provide greater improvement in ecological value.³⁴

Florida law authorizes DEP and the water management districts to require permits authorizing the establishment and use of mitigation banks.³⁵ DEP has adopted rules that serve as the basis for mitigation bank permitting done by DEP and the water management districts.³⁶

Mitigation Banking

Generally, mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity to provide mitigation for unavoidable wetland impacts within a defined mitigation service area.³⁷ The bank is the site itself, and the currency sold by the banker to the impact permittee is a credit, representing the wetland ecological value equivalent to the complete restoration of one acre.³⁸ The number of potential credits permitted for the bank, and the credit debits required for impact permits, are determined by the permitting agencies.³⁹

Creation of a mitigation bank in Florida requires both a permit from DEP or a water management district, and federal approval of a mitigation bank instrument from several agencies led by USACE, in a joint state/federal interagency review team.⁴⁰ Through this process, depending on agency approval, a mitigation bank may provide mitigation for permittees under both the federal and state permitting programs.

²⁹ DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Jan. 11, 2022).

³⁰ See generally DEP, *ERP Applicant's Handbook Volume I*, 10-2, 10-24–10-33 (2020), available at <https://www.flrules.org/gateway/reference.asp?No=Ref-12078> (last visited Jan. 11, 2022).

³¹ *Id.*

³² *Id.* at 10-1, 10-24.

³³ *Id.* at 10-25.

³⁴ *Id.*

³⁵ See generally ss. 373.4135 and 373.4136, F.S.

³⁶ See generally Fla. Admin. Code Ch. 62-342.

³⁷ DEP, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Jan. 11, 2022).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ DEP, *Mitigation Banking Rule and Procedure Synopsis*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and> (last visited Jan. 11, 2022).

Requirements for permitting mitigation banks differ between mitigation bank instruments issued by the USACE and state permits issued by DEP or the water management districts. Under the federal process, a mitigation banking instrument serves as the legal document for the establishment, operation, and use of a mitigation bank.⁴¹ They are approved by an interagency review team, through procedures involving public notice and comment.⁴² Mitigation banking instruments must include certain detailed elements, such as a comprehensive mitigation plan including financial assurances, and a credit release schedule that is tied to the achievement of specific milestones.⁴³

Under Florida law, to obtain a mitigation bank permit, the applicant must provide reasonable assurance that the mitigation bank will:

- Improve ecological conditions of the regional watershed;
- Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;
- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the long-term viability of the mitigation bank due to unsuitable land uses or conditions.⁴⁴

The applicant must also provide reasonable assurance that:

- Any surface water management system that will be constructed, altered, operated, maintained, abandoned, or removed within a mitigation bank will meet the requirements of part IV of ch. 373, F.S., which regulates management and storage of surface waters, and rules adopted thereunder;
- The applicant has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and
- The applicant can meet the financial responsibility requirements prescribed for mitigation banks.⁴⁵

Seagrass Mitigation Banking

Conceptually

Seagrass mitigation banking is a concept that applies the practices of mitigation banking to seagrass resources, where seagrass resources could be restored, established, enhanced, or preserved in a mitigation bank, which then generates credits that may be used to offset unavoidable impacts to seagrass resources elsewhere. Proponents argue that incentivizing third parties to protect and maintain a large, healthy area of seagrass beds in advance with an off-site

⁴¹ 33 C.F.R. s. 332.2.

⁴² 33 C.F.R. s. 332.8; 40 C.F.R. s. 230.98.

⁴³ See generally 33 C.F.R. s. 332.8(d)(6); see also 40 C.F.R. s. 230.98(d)(6).

⁴⁴ Section 373.4136(1), F.S.

⁴⁵ *Id.*; Fla. Admin. Code R. 62-342.400.

mitigation bank can provide better protection of seagrass resources than permittee-responsible mitigation.⁴⁶

Legislation

In 2008, the Legislature passed a bill authorizing the Board of Trustees to provide for the establishment of seagrass mitigation banks to offset the unavoidable impacts of projects where they meet the applicable public interest test.⁴⁷ The bill also stated that the authorization “shall not prohibit mitigation for impacts to seagrass or other habitats on sovereignty submerged lands for other types of projects, or for projects occurring on non-sovereign submerged lands, upon applicable approval of the board of trustees.”⁴⁸

Governor Crist vetoed the 2008 bill.⁴⁹ The veto letter stated that authorizing the conveyance of sovereignty submerged lands for a bank selling credits to facilitate the destruction of seagrasses on sovereignty submerged lands elsewhere could fail the constitutional public interest test.⁵⁰ The Governor raised concerns about the long-term success of artificially-created seagrass beds, and stated that seagrass mitigation banks would likely result in the net destruction of seagrass beds.⁵¹ In addition to seagrass beds, the letter stated that the legislation allows an applicant to seek approval from the Board of Trustees for any project involving destruction of habitat in sovereignty submerged lands that does not pass the public interest test. Finally, the letter stated that implementing the banks would require excluding the public from the sovereignty submerged lands and contravene the public’s navigation rights.⁵²

In 2021, another bill was introduced that authorized the Board of Trustees to establish seagrass mitigation banks, and which expressly did not prohibit mitigation, upon approval of the Board of Trustees, for impacts to other habitats on sovereignty submerged lands or non-sovereignty submerged lands.⁵³ In its first committee of reference, the bill was amended to specify that the Board of Trustees “may authorize leases” for seagrass mitigation banks, and also to require DEP to modify its rules to remove duplicative financial assurance requirements and ensure permitted seagrass mitigation banks comply with the federal mitigation banking rules.⁵⁴ The bill died in its second committee of reference.

In a 2021 analysis, DEP raised several concerns and comments about seagrass mitigation banks.⁵⁵ DEP stated that the long-term dedication necessary to establish the banks may conflict with the Board of Trustees’ policy and purpose to allow for public access to sovereignty

⁴⁶ See generally Stephanie A. Broad, *Seagrass Mitigation Banks and the Governor’s Veto*, 39 STETSON L. REV. 285 (2009), available at <https://www.stetson.edu/law/lawreview/media/vol-39-1-broad.pdf> (last visited Jan. 11, 2022).

⁴⁷ CS/HB 7059 (Reg. Sess. 2008).

⁴⁸ *Id.*

⁴⁹ Letter from Governor Charlie Crist to Secretary Kurt S. Browning (June 30, 2008), available at <https://static.votesmart.org/static/vetotext/21176.pdf> (last visited Jan. 11, 2022).

⁵⁰ *Id.* at 1.

⁵¹ *Id.* at 2.

⁵² *Id.*

⁵³ SB 1668 (Reg. Sess. 2021).

⁵⁴ CS/SB 1668 (Reg. Sess. 2021). The amendment also removed the reference to non-sovereignty submerged lands. See *id.*

⁵⁵ DEP, 2021 Legislative Session, Bill #: SB 1668 (2021), available at https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/5170/9341_MeetingPacket_5170.29.21.pdf (last visited Jan. 11, 2022).

submerged lands, including swimming, boating, and fishing.⁵⁶ DEP expressed concern that if state-owned lands that were purchased with bond proceeds were used for seagrass mitigation banks – a revenue-generating activity – it could trigger taxation of the interest on the bonds in violation of the Internal Revenue Service’s regulations and the bond indenture. DEP’s analysis also agreed with the concerns regarding mitigation banks that were raised by the 2008 veto letter, commenting that preserving seagrass resources is not appropriate for compensatory mitigation, because if loss or degradation of seagrass resources are said to be offset by preserving existing seagrasses that are already protected then there will be a net loss of seagrass resources.⁵⁷

III. Effect of Proposed Changes:

The bill amends s. 253.03, F.S., to authorize the Board of Trustees to establish seagrass mitigation banks consistent with state law, to both ensure the preservation and regeneration of seagrass as defined in state law, and to offset the unavoidable impacts of projects when seagrass mitigation banks meet the public interest criteria in existing law.

The bill also clarifies that it does not prohibit mitigation for impacts to seagrass or other habitats on sovereignty or non-sovereignty submerged lands, upon approval by the Board of Trustees.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

⁵⁶ *Id.* at 1.

⁵⁷ *Id.* at 2.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Board of Trustees may realize a marginal increase in proprietary authorization fees due to the establishment of seagrass mitigation banks on sovereignty submerged lands. The bill may also result in increased costs to the Board of Trustees and DEP because rulemaking, and potentially the establishment of a new program, may be necessary to implement the requirements contained in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 253.03 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Jones

35-00383-22

2022238__

1 A bill to be entitled
2 An act relating to endangered and threatened species;
3 amending s. 379.2291, F.S.; revising the legislative
4 intent of the Florida Endangered and Threatened
5 Species Act; revising definitions; directing the Fish
6 and Wildlife Conservation Commission to protect
7 certain endangered or threatened species, regardless
8 of the status of their federal classification;
9 prohibiting the commission from considering certain
10 costs when designating a species as endangered or
11 threatened; amending s. 581.185, F.S.; revising
12 criteria for placement of species on the Regulated
13 Plant Index by the Department of Agriculture and
14 Consumer Services; directing the department, in
15 consultation with the Endangered Plant Advisory
16 Council, to protect certain endangered or threatened
17 species, regardless of the status of their federal
18 classification; prohibiting the department from
19 considering certain costs when designating a species
20 as endangered or threatened; reenacting ss. 379.1026
21 and 379.4115(1), F.S., relating to site-specific
22 location information for endangered and threatened
23 species and prohibitions relating to the Florida
24 panther, respectively, to incorporate the amendment
25 made to s. 379.2291, F.S., in references thereto;
26 providing an effective date.

28 Be It Enacted by the Legislature of the State of Florida:
29

35-00383-22

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Section 1. Subsections (2), (3), and (4) of section 379.2291, Florida Statutes, are amended to read:

379.2291 Endangered and Threatened Species Act.—

(2) DECLARATION OF POLICY.—The Legislature recognizes that the State of Florida harbors a wide diversity of fish and wildlife and that it is the policy of this state to conserve and wisely manage these resources, with particular attention to those species designated ~~defined~~ by the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, or the United States Department of Interior, or successor agencies, as being endangered or threatened. As Florida has more endangered and threatened species than any other continental state, it is the intent of the Legislature to provide for research and management to conserve and protect these species as a natural resource.

(3) DEFINITIONS.—As used in this section:

(a) "Fish and wildlife" means any member of the animal kingdom, including, but not limited to, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate.

(b) "Endangered species" means any species of fish and wildlife naturally occurring in Florida, whose prospects of survival are in jeopardy due to modification or loss of habitat; overuse ~~overutilization~~ for commercial, sporting, scientific, or educational purposes; disease; predation; inadequacy of regulatory mechanisms; or other natural or manmade factors affecting its continued existence, including climate change.

(c) "Threatened species" means any species of fish and wildlife naturally occurring in Florida which may not be in

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immediate danger of extinction, but which exists in such small populations as to become endangered if it is subjected to increased stress as a result of further modification of its environment, including climate change.

(4) INTERAGENCY COORDINATION.—

(a) The commission shall be responsible for research and management of freshwater and upland species and for research and management of marine species.

(b) Recognizing that citizen awareness is a key element in the success of this plan, the commission and the Department of Education are encouraged to work together to develop a public education program with emphasis on, but not limited to, both public and private schools.

(c) The commission, in consultation with the Department of Agriculture and Consumer Services, the Department of Economic Opportunity, or the Department of Transportation, may establish reduced speed zones along roads, streets, and highways to protect endangered species or threatened species.

(d) Notwithstanding declassification under the federal Endangered Species Act of 1973, the commission shall continue to protect species that meet the definition of endangered or threatened under subsection (3), as determined by the commission.

(e) The commission may not consider the economic cost of protecting a species as a factor in designating the species as endangered or threatened.

Section 2. Subsection (5) of section 581.185, Florida Statutes, is amended to read:

581.185 Preservation of native flora of Florida.—

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(5) REVIEW.—

(a) Beginning in 1984, and every 4 years thereafter, the department and the Endangered Plant Advisory Council shall conduct a comprehensive review of this section and of the Regulated Plant Index, as provided in rules of the department, ~~shall be made by the department and the Endangered Plant Advisory Council at 4-year intervals.~~

(b) The department shall consider any species of plant that should be placed on the Regulated Plant Index which is in danger of disappearing from its native habitat within the foreseeable future throughout all or a significant portion of the range of the species because of:

1. Present or threatened destruction, modification, or curtailment of the range of the species.

2. Overuse ~~Overutilization~~ of the species for commercial, scientific, or educational purposes.

3. Disease or predation.

4. Any other natural or manmade factor affecting the continued existence of the species, including climate change.

(c) In carrying out reviews and arriving at recommendations under paragraphs (a) and (b), the department and the advisory council shall use the best scientific and commercial data available and shall consult with interested persons and organizations.

(d) Notwithstanding declassification under the federal Endangered Species Act of 1973, the department shall continue to protect species that meet the definition of endangered or threatened under subsection (2), as determined by the department in consultation with the advisory council.

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117 (e) The department may not consider the economic cost of
118 protecting a species as a factor in designating the species as
119 endangered or threatened.

120 Section 3. For the purpose of incorporating the amendment
121 made by this act to section 379.2291, Florida Statutes, in a
122 reference thereto, section 379.1026, Florida Statutes, is
123 reenacted to read:

124 379.1026 Site-specific location information for endangered
125 and threatened species; public records exemption.—The site-
126 specific location information held by an agency as defined in s.
127 119.011 concerning an endangered species as defined in s.
128 379.2291(3)(b), a threatened species as defined in s.
129 379.2291(3)(c), or a species listed by a federal agency as
130 endangered or threatened, is exempt from s. 119.07(1) and s.
131 24(a), Art. I of the State Constitution. This exemption does not
132 apply to the site-specific location information of animals held
133 in captivity. This section is subject to the Open Government
134 Sunset Review Act in accordance with s. 119.15 and shall stand
135 repealed on October 2, 2025, unless reviewed and saved from
136 repeal by the Legislature.

137 Section 4. For the purpose of incorporating the amendment
138 made by this act to section 379.2291, Florida Statutes, in a
139 reference thereto, subsection (1) of section 379.4115, Florida
140 Statutes, is reenacted to read:

141 379.4115 Florida or wild panther; killing prohibited;
142 penalty.—

143 (1) It is unlawful for a person to kill a member of the
144 Florida "endangered species," as defined in s. 379.2291(3),
145 known as the Florida panther (*Felis concolor coryi*).

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146

Section 5. This act shall take effect July 1, 2022.

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1 A bill to be entitled
2 An act relating to endangered and threatened species;
3 amending s. 379.2291, F.S.; revising the legislative
4 intent of the Florida Endangered and Threatened
5 Species Act; revising definitions; directing the Fish
6 and Wildlife Conservation Commission to protect
7 certain endangered or threatened species, regardless
8 of the status of their federal classification;
9 prohibiting the commission from considering certain
10 costs when designating a species as endangered or
11 threatened; amending s. 581.185, F.S.; revising
12 criteria for placement of species on the Regulated
13 Plant Index by the Department of Agriculture and
14 Consumer Services; directing the department, in
15 consultation with the Endangered Plant Advisory
16 Council, to protect certain endangered or threatened
17 species, regardless of the status of their federal
18 classification; prohibiting the department from
19 considering certain costs when designating a species
20 as endangered or threatened; reenacting ss. 379.1026
21 and 379.4115(1), F.S., relating to site-specific
22 location information for endangered and threatened
23 species and prohibitions relating to the Florida
24 panther, respectively, to incorporate the amendment
25 made to s. 379.2291, F.S., in references thereto;

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26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsections (2), (3), and (4) of section
31 379.2291, Florida Statutes, are amended to read:

32 379.2291 Endangered and Threatened Species Act.—

33 (2) DECLARATION OF POLICY.—The Legislature recognizes that
34 the State of Florida harbors a wide diversity of fish and
35 wildlife and that it is the policy of this state to conserve and
36 wisely manage these resources, with particular attention to
37 those species designated ~~defined~~ by the Fish and Wildlife
38 Conservation Commission, the Department of Environmental
39 Protection, or the United States Department of Interior, or
40 successor agencies, as being endangered or threatened. As
41 Florida has more endangered and threatened species than any
42 other continental state, it is the intent of the Legislature to
43 provide for research and management to conserve and protect
44 these species as a natural resource.

45 (3) DEFINITIONS.—As used in this section:

46 (a) "Fish and wildlife" means any member of the animal
47 kingdom, including, but not limited to, any mammal, fish, bird,
48 amphibian, reptile, mollusk, crustacean, arthropod, or other
49 invertebrate.

50 (b) "Endangered species" means any species of fish and

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51 wildlife naturally occurring in Florida, whose prospects of
52 survival are in jeopardy due to modification or loss of habitat;
53 overuse ~~overutilization~~ for commercial, sporting, scientific, or
54 educational purposes; disease; predation; inadequacy of
55 regulatory mechanisms; or other natural or manmade factors
56 affecting its continued existence, including climate change.

57 (c) "Threatened species" means any species of fish and
58 wildlife naturally occurring in Florida which may not be in
59 immediate danger of extinction, but which exists in such small
60 populations as to become endangered if it is subjected to
61 increased stress as a result of further modification of its
62 environment, including climate change.

63 (4) INTERAGENCY COORDINATION.—

64 (a) The commission shall be responsible for research and
65 management of freshwater and upland species and for research and
66 management of marine species.

67 (b) Recognizing that citizen awareness is a key element in
68 the success of this plan, the commission and the Department of
69 Education are encouraged to work together to develop a public
70 education program with emphasis on, but not limited to, both
71 public and private schools.

72 (c) The commission, in consultation with the Department of
73 Agriculture and Consumer Services, the Department of Economic
74 Opportunity, or the Department of Transportation, may establish
75 reduced speed zones along roads, streets, and highways to

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76 protect endangered species or threatened species.

77 (d) Notwithstanding declassification under the federal
78 Endangered Species Act of 1973, the commission shall continue to
79 protect species that meet the definition of endangered or
80 threatened under subsection (3), as determined by the
81 commission.

82 (e) The commission may not consider the economic cost of
83 protecting a species as a factor in designating the species as
84 endangered or threatened.

85 Section 2. Subsection (5) of section 581.185, Florida
86 Statutes, is amended to read:

87 581.185 Preservation of native flora of Florida.—

88 (5) REVIEW.—

89 (a) Beginning in 1984, and every 4 years thereafter, the
90 department and the Endangered Plant Advisory Council shall
91 conduct a comprehensive review of this section and of the
92 Regulated Plant Index, as provided in rules of the department,
93 ~~shall be made by the department and the Endangered Plant~~
94 ~~Advisory Council at 4-year intervals.~~

95 (b) The department shall consider any species of plant
96 that should be placed on the Regulated Plant Index which is in
97 danger of disappearing from its native habitat within the
98 foreseeable future throughout all or a significant portion of
99 the range of the species because of:

100 1. Present or threatened destruction, modification, or

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101 curtailment of the range of the species.

102 2. Overuse ~~Overutilization~~ of the species for commercial,
103 scientific, or educational purposes.

104 3. Disease or predation.

105 4. Any other natural or manmade factor affecting the
106 continued existence of the species, including climate change.

107 (c) In carrying out reviews and arriving at
108 recommendations under paragraphs (a) and (b), the department and
109 the advisory council shall use the best scientific and
110 commercial data available and shall consult with interested
111 persons and organizations.

112 (d) Notwithstanding declassification under the federal
113 Endangered Species Act of 1973, the department shall continue to
114 protect species that meet the definition of endangered or
115 threatened under subsection (2), as determined by the department
116 in consultation with the advisory council.

117 (e) The department may not consider the economic cost of
118 protecting a species as a factor in designating the species as
119 endangered or threatened.

120 Section 3. For the purpose of incorporating the amendment
121 made by this act to section 379.2291, Florida Statutes, in a
122 reference thereto, section 379.1026, Florida Statutes, is
123 reenacted to read:

124 379.1026 Site-specific location information for endangered
125 and threatened species; public records exemption.—The site-

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specific location information held by an agency as defined in s. 119.011 concerning an endangered species as defined in s. 379.2291(3)(b), a threatened species as defined in s. 379.2291(3)(c), or a species listed by a federal agency as endangered or threatened, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption does not apply to the site-specific location information of animals held in captivity. This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal by the Legislature.

Section 4. For the purpose of incorporating the amendment made by this act to section 379.2291, Florida Statutes, in a reference thereto, subsection (1) of section 379.4115, Florida Statutes, is reenacted to read:

379.4115 Florida or wild panther; killing prohibited; penalty.—

(1) It is unlawful for a person to kill a member of the Florida "endangered species," as defined in s. 379.2291(3), known as the Florida panther (*Felis concolor coryi*).

Section 5. This act shall take effect July 1, 2022.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to the Fish and Wildlife Conservation
Commission; amending s. 259.105, F.S.; requiring land
management agencies to consider, in consultation with
the commission, as part of certain state land
management plans, the feasibility of using portions of
such lands as gopher tortoise recipient sites;
requiring the agencies to consult with the commission
on required feasibilities assessments and the
implementation of management strategies; amending ss.
327.352 and 327.35215, F.S.; 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
certain athletic teams or sports affiliated with
specified educational institutions to operate a human-
powered vessel within the marked channel of the
Florida Intracoastal Waterway; amending s. 327.4107,
F.S.; revising the vessel conditions that an officer
of the Fish and Wildlife Conservation 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 public bathing beach areas or swim
areas within their jurisdictions which are within the



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marked channel portion of the Florida Intracoastal Waterway or within a specified distance from any portion of the marked channel; 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; 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; 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



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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 a reference 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.



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

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

96 5. The state's groundwater, surface waters, and springs are
97 under tremendous pressure due to population growth and economic
98 expansion and require special protection and restoration
99 efforts, including the protection of uplands and springsheds
100 that provide vital recharge to aquifer systems and are critical
101 to the protection of water quality and water quantity of the
102 aquifers and springs. To ensure that sufficient quantities of
103 water are available to meet the current and future needs of the
104 natural systems and citizens of the state, and assist in
105 achieving the planning goals of the department and the water
106 management districts, water resource development projects on
107 public lands, if compatible with the resource values of and
108 management objectives for the lands, are appropriate.

109 6. The needs of urban, suburban, and small communities in
110 the state for high-quality outdoor recreational opportunities,
111 greenways, trails, and open space have not been fully met by
112 previous acquisition programs. Through such programs as the
113 Florida Communities Trust and the Florida Recreation Development



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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 must ~~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.



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

154 11. The state must play a major role in the recovery and
155 management of its imperiled species through the acquisition,
156 restoration, enhancement, and management of ecosystems that can
157 support the major life functions of such species. It is the
158 intent of the Legislature to support local, state, and federal
159 programs that result in net benefit to imperiled species habitat
160 by providing public and private land owners meaningful
161 incentives for acquiring, restoring, managing, and repopulating
162 habitats for imperiled species. It is the further intent of the
163 Legislature that public lands, both existing and to be acquired,
164 identified by the lead land managing agency, in consultation
165 with the Fish and Wildlife Conservation Commission for animals
166 or the Department of Agriculture and Consumer Services for
167 plants, as habitat or potentially restorable habitat for
168 imperiled species, be restored, enhanced, managed, and
169 repopulated as habitat for such species to advance the goals and
170 objectives of imperiled species management for conservation,
171 recreation, or both, consistent with the land management plan



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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 must ~~shall~~ include as a consideration in management plan development the restoration, enhancement, management, and repopulation of such habitats. Each lead land managing agency, in consultation with the Fish and Wildlife Conservation Commission, shall consider in the management plan for all state lands under its management which are greater in size than 40 contiguous acres the feasibility of using a portion of the property as a gopher tortoise recipient site. If, during consultation with the Fish and Wildlife Conservation Commission, the lead land managing agency determines that the recipient site management is not in conflict with the primary management objects of the parcel, the management plan must contain a component or section prepared by a qualified wildlife biologist which assesses the feasibility of managing the site as a



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201 recipient site for gopher tortoises, consistent with the rules
202 of the Fish and Wildlife Conservation Commission. Each land
203 management agency shall consult with the Fish and Wildlife
204 Conservation Commission on feasibility assessments and
205 implementation of gopher tortoise management. In addition, the
206 lead land managing agency of such state lands may use fees
207 received from public or private entities for projects to offset
208 adverse impacts to imperiled species or their habitat in order
209 to restore, enhance, manage, repopulate, or acquire land and to
210 implement land management plans developed under s. 253.034 or a
211 land management prospectus developed and implemented under this
212 chapter. Such fees shall be deposited into a foundation or fund
213 created by each land management agency under s. 379.223, s.
214 589.012, or s. 259.032(9)(c), to be used solely to restore,
215 manage, enhance, repopulate, or acquire imperiled species
216 habitat.

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

221 (b) The Legislature recognizes that acquisition of lands in
222 fee simple is only one way to achieve the aforementioned goals
223 and encourages the use of less-than-fee interests, other
224 techniques, and the development of creative partnerships between
225 governmental agencies and private landowners. Such partnerships
226 may include those that advance the restoration, enhancement,
227 management, or repopulation of imperiled species habitat on
228 state lands as provided for in subparagraph (a)11. Easements
229 acquired pursuant to s. 570.71(2)(a) and (b), land protection



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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.

Section 2. 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



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259 under the influence of alcoholic beverages. The administration
260 of a breath test does not preclude the administration of another
261 type of test. The person shall be told that his or her failure
262 to submit to any lawful test of his or her breath under this
263 chapter will result in a civil penalty of \$500, and ~~shall also~~
264 ~~be told~~ that if he or she refuses to submit to a lawful test of
265 his or her breath and he or she has been previously fined under
266 s. 327.35215 or ~~has previously had~~ his or her driving privilege
267 has been previously ~~driver license~~ suspended for refusal to
268 submit to any lawful test of his or her breath, urine, or blood,
269 he or she commits a misdemeanor of the first degree, punishable
270 as provided in s. 775.082 or s. 775.083, in addition to any
271 other penalties provided by law. The refusal to submit to a
272 chemical or physical breath test upon the request of a law
273 enforcement officer as provided in this section is admissible
274 into evidence in any criminal proceeding.

275 2. A person who accepts the privilege extended by the laws
276 of this state of operating a vessel within this state is, by
277 operating such vessel, deemed to have given his or her consent
278 to submit to a urine test for the purpose of detecting the
279 presence of chemical substances as set forth in s. 877.111 or
280 controlled substances if the person is lawfully arrested for any
281 offense allegedly committed while the person was operating a
282 vessel while under the influence of chemical substances or
283 controlled substances. The urine test must be incidental to a
284 lawful arrest and administered at a detention facility or any
285 other facility, mobile or otherwise, which is equipped to
286 administer such tests at the request of a law enforcement
287 officer who has reasonable cause to believe such person was



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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



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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 3. 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



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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 4. 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 interscholastic, intercollegiate, intramural, or club athletic teams or sports 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).

Section 5. 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 6. Paragraph (b) of subsection (1) of section 327.46, Florida Statutes, is amended to read:



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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.



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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 public bathing beach or swim areas may not be established in whole or in part within the marked channel of the Florida Intracoastal Waterway or within 100 feet of any portion of the marked channel.

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 7. Section 376.15, Florida Statutes, is repealed.



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Section 8. 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 9. 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



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pursuant to s. 327.73(1)(aa).

Section 10. 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:



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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



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520 enforcement agency shall contact the Department of Highway
521 Safety and Motor Vehicles in order to determine the name and
522 address of the owner and any person who has filed a lien on the
523 vehicle or vessel as provided in s. 319.27(2) or (3) or s.
524 328.15(1). On receipt of this information, the law enforcement
525 agency shall mail a copy of the notice by certified mail, return
526 receipt requested, to the owner and to the lienholder, if any,
527 except that a law enforcement officer who has issued a citation
528 for a violation of ~~s. 376.15~~ or s. 823.11 to the owner of a
529 derelict vessel is not required to mail a copy of the notice by
530 certified mail, return receipt requested, to the owner. For a
531 derelict vessel or a vessel declared a public nuisance pursuant
532 to s. 327.73(1)(aa), the mailed notice must inform the owner or
533 responsible party that he or she has a right to a hearing to
534 dispute the determination that the vessel is derelict or
535 otherwise in violation of the law. If a request for a hearing is
536 made, a state agency shall follow the processes set forth in s.
537 120.569. Local governmental entities shall follow the processes
538 set forth in s. 120.569, except that a local judge, magistrate,
539 or code enforcement officer may be designated to conduct such a
540 hearing. If, at the end of 5 days after posting the notice in
541 sub-subparagraph 1.a., or at the end of 21 days after posting
542 the notice in sub-subparagraph 1.b., and mailing such notice, if
543 required, the owner or any person interested in the lost or
544 abandoned article or articles described has not removed the
545 article or articles from public property or shown reasonable
546 cause for failure to do so, and, in the case of a derelict
547 vessel or a vessel declared a public nuisance pursuant to s.
548 327.73(1)(aa), has not requested a hearing in accordance with



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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



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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



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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 11. 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,



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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



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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



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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



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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 12. 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



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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



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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



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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



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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.



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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 (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 13. 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



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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 14. 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. 376.15 and~~ 823.11 conferring powers or duties upon it.

Section 15. 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.



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Section 16. Section 25 of chapter 2021-184, Laws of Florida, is repealed.

Section 17. 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,



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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 18. 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.



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Section 19. 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 20. 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



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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/CS/SB 494 (602302)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government; Environment and Natural Resources Committee; and Senator Hutson

SUBJECT: Fish and Wildlife Conservation Commission

DATE: January 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	Fav/CS
2.	Reagan	Betta	AEG	Recommend: Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 494 revises laws administered by the Fish and Wildlife Conservation Commission (FWC) and other law enforcement entities. The bill:

- Amends the Florida Forever Act to require each lead land managing agency, in consultation with the FWC, to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger than 40 contiguous acres.
- Specifies that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted mooring or other structure.
- Specifies the circumstances in which law enforcement may destroy or dispose of a vessel.
- Reorganizes provisions authorizing the FWC to establish a program to provide grants to local governments for the removal, storage, destruction, and disposal of derelict vessels.
- Allows operation of human-powered vessels in the marked channel of the Florida Intracoastal Waterway for specified reasons.
- Specifies that a certificate of title may not be issued for a public nuisance vessel.
- Specifies that a local government cannot create a public bathing beach or swim area in the marked channel of the Florida Intracoastal Waterway or within 100 feet of the marked channel.
- Adds public nuisance vessels to the definition of abandoned property.

- Places liability for costs of vessel removal, storage, destruction, and disposition on the owner or responsible party after notice is given.
- Authorizes FWC law enforcement officers to use drones to manage and eradicate invasive plants or animals on public lands and to suppress and mitigate wildfire threats.

The bill will have an indeterminate fiscal impact on the FWC as the derelict vessel removal grants to local governments will be subject to appropriation.

II. Present Situation:

Florida Forever

As a successor to Preservation 2000, the Legislature created the Florida Forever program in 1999 as the blueprint for conserving Florida's natural resources.¹ The Florida Forever Act reinforced the state's commitment to conserve its natural and cultural heritage, provide urban open space, and better manage the land acquired by the state.² Florida Forever encompasses a wide range of goals including: land acquisition; environmental restoration; water resource development and supply; increased public access; public lands management and maintenance; and increased protection of land through the purchase of conservation easements.³ The state has acquired more than 2.4 million acres since 1991 under the Preservation 2000 and the Florida Forever programs.⁴

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.⁵ The FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate to five-year terms.⁶ Under Article IV, section 9 of the Florida Constitution, the FWC is granted the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.

Chapters 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by the FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.⁷ The

¹ Chapter 99-247, Laws of Fla.

² Department of Environmental Protection (DEP), *Florida Forever Five Year Plan* (2021), 17, available at [FLDEP DSL OES FF 2021Abstract 2.pdf \(floridadep.gov\)](https://floridadep.gov/lands/environmental-services/content/faq-florida-forever) (last visited Jan. 10, 2022).

³ Section 259.105, F.S.

⁴ DEP, *Frequently Asked Questions about Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/faq-florida-forever> (last visited Jan. 10, 2022). See Florida Natural Areas Inventory, *Summary of Florida Conservation Lands* (Feb. 2019), available at https://www.fnai.org/PDFs/Maacres_202103_FCL_plus_LTF.pdf (last visited Jan. 10, 2022) for a complete summary of the total amount of conservation lands in Florida.

⁵ FLA. CONST. art. IV, s. 9.

⁶ *Id.*; see also s. 379.102(1), F.S.

⁷ Section 327.70(1), F.S.; see s. 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management

Division of Law Enforcement manages the state's waterways to ensure boating safety for residents and visitors.⁸ This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.⁹

Boating Safety Regulations

A vessel operator in Florida must operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of another person outside the vessel or due to vessel overloading or excessive speed.¹⁰ Operating a vessel in excess of a posted speed limit is a noncriminal infraction, for which the penalty is \$50.¹¹

Vessel owners and operators must maintain safety equipment in accordance with current Coast Guard safety equipment requirements, unless expressly exempted.¹² Vessel owners and operators are also subject to additional safety requirements relating to appropriate equipment and the use of personal flotation devices.¹³

Testing for Alcohol, Chemical Substances, and Controlled Substances

Anyone who operates a motor vehicle or vessel in the state, by operating such a vehicle or vessel, consents to an approved chemical or physical breath test to determine breath alcoholic content, or a urine test to detect the presence of chemical substances or controlled substances.¹⁴ These tests may be performed if the person is lawfully arrested for any offense allegedly committed while the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical or controlled substances.¹⁵

Additionally, anyone who operates a motor vehicle or vessel in the state consents to an approved blood test to determine blood alcoholic content or to detect the presence of chemical substances or controlled substances.¹⁶ These tests may be performed if there is reasonable cause to believe that the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or emergency vehicle, and the administration of a breath or urine test is impractical or impossible.¹⁷

responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

⁸ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Nov. 5, 2021).

⁹ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Nov. 5, 2021). See ss. 327.70(1) and (4), F.S.

¹⁰ Section 327.33, F.S.

¹¹ Section 327.73(h), F.S.

¹² Section 327.50, F.S.

¹³ *Id.*

¹⁴ Sections 316.1932(1)(a) and 327.352(1)(a), F.S.

¹⁵ *Id.*

¹⁶ Sections 316.1932(1)(c) and 327.352(1)(c), F.S.

¹⁷ *Id.*

A person who operates a motor vehicle and fails to submit to a breath, urine, or blood test will have his or her driver's license suspended for a period of one year for a first refusal, or 18 months for a repeat refusal.¹⁸ A person who operates a motor vehicle who fails to submit to such test who has previously had his or her license suspended for a prior refusal commits a misdemeanor of the first degree and is subject to additional penalties.¹⁹

A person who operates a vessel and fails to submit to a breath, urine, or blood test is subject to a civil penalty of \$500 for a first refusal.²⁰ A person who operates a vessel and fails to submit to such test who has been previously fined commits a misdemeanor and is subject to additional penalties.²¹

Boating-Restricted Areas

Boating-restricted areas, which may restrict the speed and operation of vessels, may be established on the waters of the state for any purpose necessary to protect the safety of the public, taking into account boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards, as well as seagrass protection on privately owned submerged lands.²²

Local governments have authority to establish boating-restricted areas by ordinance within the portion of the Florida Intracoastal Waterway within their jurisdiction.²³ These areas include, but are not limited to:

- Idle-speed, no wake areas;
- Slow speed, minimum wake areas; and
- Vessel-exclusion zones.

Local governments can establish vessel-exclusion zones if the area is:

- Designated as a public bathing beach or swim area;
- Within 300 feet of a dam, spillway, or flood control structure;
- Reserved as a canoe trail or otherwise limited to vessels under oars or sail; or
- Reserved exclusively for a particular activity and user group separation must be imposed to protect the safety of participants.²⁴

Derelict Vessels

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or

¹⁸ Sections 316.1932(1)(a) and (1)(c), F.S.

¹⁹ *Id.*; s. 316.1939, F.S.

²⁰ Sections 327.352(1)(a) and (1)(c), F.S.

²¹ *Id.*; s. 327.259, F.S.

²² Section 327.46(1), F.S.

²³ *Id.*

²⁴ *Id.*

beached upon the property of another without the consent.²⁵ It is unlawful to store, leave, or abandon any derelict vessel in this state.²⁶

At-Risk Vessels

Neglected or deteriorating vessels may not occupy the waters of this state.²⁷ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is listing due to water intrusion; or
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives notice.²⁸

Vessels Declared to be a Public Nuisance

If a vessel is declared at risk of becoming derelict under the same condition three or more times within an 18-month period, and if the determination results in dispositions other than acquittal or dismissal, the vessel is declared to be a public nuisance.²⁹ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is listing due to water intrusion; or
- The vessel does not have effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives notice.³⁰

A vessel that is declared to be a public nuisance and threatens navigation, or is a danger to the environment, property, or persons, may be relocated, removed, stored, destroyed, or disposed of by the FWC or other law enforcement.³¹ When a derelict vessel or a vessel declared to be a public nuisance through the process described above is located on the waters of the state, a law enforcement officer shall place a notice on the vessel in a form substantially similar to the one provided by statute.³²

²⁵ Section 823.11(1)(b), F.S.

²⁶ Section 376.15, F.S.; s. 823.11(2), F.S.

²⁷ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

²⁸ Section 327.4107, F.S.

²⁹ Section 327.73(1)(aa), F.S.; s. 327.4107(2), F.S.

³⁰ Section 327.4107(2), F.S.

³¹ Section 327.73(1)(aa), F.S.; s. 823.11(3), F.S.

³² Section 705.103(1)(b), F.S.

Abandoned Vessels

“Abandoned property”³³ means all tangible personal property that does not have an identifiable owner and that has been disposed of 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 state law.

When a derelict vessel or a vessel declared to be a public nuisance is on the waters of the state, a law enforcement officer must place a notice of removal on the vessel. The law enforcement agency must then contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner, and must mail a copy of the notice to the owner.³⁴

If, after 21 days of posting and mailing the notice, the owner has not removed the vessel from the waters of the state or shown reasonable cause for failure to do so, the law enforcement agency may remove, destroy, or dispose of the vessel.³⁵

The owner of a derelict vessel or a vessel declared to be a public nuisance who does not remove the vessel after receiving notice, is liable to the law enforcement agency for all costs of removal, storage, and destruction of the vessel, less any salvage value obtained by its disposal.³⁶ Upon the final disposition of the vessel, the law enforcement officer must notify the owner of the amount owed. A person who neglects or refuses to pay the amount owed is not entitled to be issued a certificate of registration for the vessel, or any other vessel, until such costs have been paid.³⁷

Local governments are authorized to enact and enforce regulations to implement the procedures for abandoned or lost property that allow a local law enforcement agency, after providing written notice, to remove a vessel affixed to a public dock within its jurisdiction that is abandoned or lost property.³⁸

Removal of Derelict Vessels

The FWC’s Division of Law Enforcement and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officers have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.³⁹ Sections 376.15 and 823.11, F.S., both address the treatment of derelict vessels. Much of the language between the two statutes is duplicative.⁴⁰

Both state and local law enforcement are authorized and empowered to relocate, remove, store, destroy, or dispose of a derelict vessel from waters of the state if the derelict vessel threatens navigation or is a danger to the environment, property, or persons.⁴¹ The FWC officers and other law enforcement agency officers or contractors who perform relocation or removal activities at

³³ Section 705.101(3), F.S.

³⁴ Section 705.103(2), F.S.

³⁵ *Id.*

³⁶ Section 705.103(4), F.S.

³⁷ *Id.*

³⁸ Section 327.60(5), F.S.

³⁹ Section 327.70, F.S.

⁴⁰ Section 376.15, F.S.; s. 823.11, F.S.

⁴¹ Section 823.11(3), F.S.; s. 376.15(3)(a), F.S.

the FWC's direction are required to be licensed, insured, and properly equipped to perform the services to be provided.⁴²

The costs incurred by the FWC or another law enforcement agency for relocating or removing a derelict vessel are recoverable against the vessel owner.⁴³ A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by its disposal, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.⁴⁴

The FWC has the authority to provide grants, funded from the Marine Resource Conservation Trust Fund or the Florida Coastal Protection Trust Fund, to local governments for the removal of derelict vessels from waters of this state, if funds are appropriated for the grant program.⁴⁵ However, each fiscal year, if all program funds are not requested by and granted to local governments for the removal of derelict vessels by the end of the third quarter, the FWC may use the remainder of the funds to remove, or pay private contractors to remove, derelict vessels.⁴⁶ Pursuant to this, the FWC established the Derelict Vessel Removal Grant Program in 2019.⁴⁷ Grants are awarded based on a set of criteria outlined in FWC rules.⁴⁸

Penalties for Prohibited Acts Relating to Derelict Vessels and Anchoring and Mooring

It is a first degree misdemeanor to store, leave, or abandon a derelict vessel in Florida.⁴⁹ Violations are punishable by imprisonment of no more than one year and a fine of up to \$1,000.⁵⁰ Further, such violation is punishable by a civil penalty of up to \$75,000 per violation per day.⁵¹ Each day during any portion of which the violation occurs constitutes a separate offense.⁵²

An owner or operator of a vessel at risk of becoming derelict on waters of this state or who allows such vessel to occupy such waters, is subject to a uniform boating citation and civil penalty. The civil penalty provided is:

- \$100 for a first offense;
- \$250 for a second offense occurring 30 days or more after a first offense; and
- \$500 for a third offense occurring 30 days or more after a previous offense.⁵³

⁴² Section 823.11(3)(c), F.S.; s. 376.15(3)(c), F.S.

⁴³ Section 823.11(3)(a), F.S.; s. 376.15(3)(a), F.S.

⁴⁴ Section 705.103(4), F.S.

⁴⁵ Section 376.15, F.S.

⁴⁶ Section 376.15, F.S.

⁴⁷ FWC, *FWC Derelict Vessel Removal Grant Program Guidelines*, 2 (2019), available at <https://myfwc.com/media/22317/dv-grant-guidelines.pdf> (last visited Nov. 15, 2021). Incorporated by reference in Fla. Admin. Code R. 68-1.003.

⁴⁸ *Id.*

⁴⁹ Sections 376.15(2) and 823.11(2) and (5), F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁵⁰ Sections 775.082(4)(a) and 775.083(1)(d), F.S.

⁵¹ Sections 376.15(2) and 376.16(1), F.S.

⁵² Section 376.16(1), F.S.

⁵³ Section 327.73(1)(aa), F.S.

An owner or operator of a vessel or floating structure who anchors or moors in a prohibited area is subject to a uniform boating citation and penalties. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third offense.⁵⁴

Any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws, be charged with a second degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days of imprisonment.⁵⁵

Florida Intracoastal Waterway

The Florida Intracoastal Waterway consists of the following waterways: the Atlantic Intracoastal Waterway, the Georgia state line north of Fernandina to Miami; the Port Canaveral lock and canal to the Atlantic Intracoastal Waterway; the Atlantic Intracoastal Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to Fort Myers; the St. Johns River, Jacksonville to Sanford; the Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to Anclote open bay section, using the Gulf of Mexico; the Gulf Intracoastal Waterway, Carrabelle to the Alabama state line west of Pensacola; and the Apalachicola, Chattahoochee, and Flint Rivers in Florida.⁵⁶ The Florida Intracoastal Waterway is shown in the map below.⁵⁷

⁵⁴ Section 327.73(1)(bb), F.S.

⁵⁵ Sections 327.73(1), 775.082, and 775.083, F.S.

⁵⁶ Section 327.02(15), F.S.

⁵⁷ Florida Department of Transportation, *Florida Waterways System Plan*, Figure 1-2 on p. 1-12 (2015), available at https://www.fdot.gov/docs/default-source/seaport/pdfs/2015-Florida-Waterways-System-Plan_Final.pdf (last visited Nov. 5, 2021).



Drones

A drone is a powered, aerial vehicle that does not carry a human operator; uses aerodynamic forces to provide vehicle lift; can fly autonomously or be piloted remotely; can be expendable or recoverable; and can carry a lethal or nonlethal payload.⁵⁸ Florida law prohibits the use of drones by a law enforcement agency to gather evidence or other information, and by a person, state agency, or political subdivision to conduct surveillance on privately-owned real property or on the owner, tenant, occupant, invitee, or licensee of the real property.⁵⁹ The exceptions to the prohibition allow a non-law enforcement employee of the FWC or the Florida Forest Service to use a drone to manage or eradicate invasive exotic plants or animals on public lands and to suppress wildfire threats.⁶⁰

Remote sensing using drones for the surveillance, detection, and reporting of an invasive species can improve early detection of invading plants and animals, making management more efficient and less expensive.⁶¹ Studies have shown that drones can efficiently and inexpensively cover a

⁵⁸ Section 934.50(1)(a), F.S.

⁵⁹ Section 934.50(3), F.S.

⁶⁰ Section 934.50(4)(p), F.S.

⁶¹ Barbara Martinez, Alex Dehgan, Brad Zamft, David Baisch, Colin McCormick, Anthony J. Giordano, Rebecca Aicher, Shah Selbe, Cassie Hoffman, *Advancing federal capacities for the early detection of and rapid response to invasive species*

large geographic range, reach places that are difficult to access, carry a variety of cameras and sensors, collect biological specimens, and target and eliminate individual organisms through ballistic application of herbicides.⁶²

III. Effect of Proposed Changes:

Section 1 amends s. 259.105, F.S., the Florida Forever Act, to require each lead land management agency, in consultation with the Fish and Wildlife Conservation Commission (FWC), to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger the 40 contiguous acres.

If the recipient site management is not in conflict with the primary management objects of the parcel, the management plan must contain an assessment of feasibility of managing the site as a recipient site for gopher tortoises.

Each land management agency must consult with the FWC on feasibility assessments and implementation of gopher tortoise management.

Provides that gopher tortoise recipient sites should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection.

Section 2 amends s. 327.352, F.S., to change a driver's license suspension to a driving privilege suspension, as related to a refusal to submit to a lawful breath, urine, or blood test.

Section 3 amends s. 327.35215, F.S., to require that the Fish and Wildlife Conservation Commission (FWC) provide the certified statement forms that a law enforcement officer must fill out upon arresting a person for refusing to submit to lawful breath, blood, or urine test.

Section 4 amends s. 327.371, F.S., to allow a person to operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway when participating in interscholastic, intercollegiate, intramural, or club athletic teams or sports affiliated with an educational institution.

Section 5 amends s. 327.4107, F.S., to allow an FWC officer or other law enforcement officer to determine that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted structure or mooring.

Section 6 amends s. 327.46, F.S., to clarify that when municipalities and counties establish public bathing beach or swim areas as vessel-exclusion zones, they may not establish them within the marked channel of the Florida Intracoastal Waterway or within 100 feet of any portion of the marked channel.

Section 7 repeals s. 376.15, F.S. The repeal has no effect, as the bill merely moves non-duplicative language in s. 376.15, F.S., relating to derelict vessels and their relocation or removal

through technology innovation, National Invasive Species Council: Contractor's Report, Mar. 2017, *available at* [federal capacities for edrr through technology innovation prepub 8.7.17.pdf \(doi.gov\)](#) (last visited Nov. 15 2021).

⁶² *Id.*

from waters of this state, from that section to s. 823.11, F.S., which also addresses derelict vessels.

Section 8 amends s. 379.101, F.S., to clarify the definitions of “marine fish” and “saltwater fish” to reflect updates in the scientific classification of certain identifying terminology.

Section 9 amends s. 705.101, F.S., to add vessels declared a public nuisance to the definition of abandoned property. Vessels that are abandoned property are declared a public nuisance after having been found at risk of dereliction three or more times for the same condition within 18 months.

Section 10 amends s. 705.103, F.S., relating to procedures for abandoned or lost property. The bill adds vessels declared to be a public nuisance into the notice requirements and liability provisions applicable to owners of, or parties responsible for, derelict vessels. The bill also allows law enforcement officers to dispose of derelict vessels or vessels declared to be a public nuisance. This section also makes technical changes and deletes a cross-reference to s. 376.15, F.S.

Section 11 amends s. 705.103, F.S., as amended by chapters 2019-76 and 2021-184, Laws of Florida, which will be effective July 1, 2023, to make the changes discussed in Section 9 of the bill.

Section 12 amends s. 823.11, F.S., to clarify that additional time provided 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 in the event of an accident or event, does not apply if the vessel was already derelict. The bill removes language allowing law enforcement to destroy or dispose of derelict vessels threatening navigation or endangering environment, property, or persons. The bill moves language relating to grants for removal and disposal of derelict vessels from s. 376.15, F.S., (deleted by the bill) into s. 823.11, F.S. It also makes technical changes and deletes references to s. 376.15, F.S.

Section 13 amends s. 934.50, F.S., relating to searches and seizure using a drone. The bill deletes language prohibiting law enforcement employees of the FWC and the Florida Forest Service from using a drone to manage and eradicate invasive exotic plants and animals on public lands and to suppress and mitigate wildfire threats.

Section 14 amends s. 327.04, F.S., to delete a reference to s. 376.15, F.S.

Section 15 amends s. 328.09, F.S., to delete and revise a reference to s. 376.15, F.S. The bill also provides that the Department of Highway Safety and Motor Vehicles may not issue a certificate of title for a vessel that has been deemed a public nuisance after having been found at risk of becoming derelict three or more times within an 18-month period. The bill authorizes the department to issue a certificate of title once law enforcement has verified in writing that the vessel is no longer a public nuisance. The bill adds these requirements for public nuisance vessels to the current requirements for derelict vessels.

Section 16 amends s. 25 of ch. 2021-184, Laws of Florida, to remove a reference to s. 376.15, F.S.

Section 17 amends s. 328.72, F.S., to delete and revise a reference to s. 376.15, F.S.

Section 18 amends s. 376.11, F.S., to direct that Florida Coastal Protection Trust Fund moneys may be used to fund grant programs for local governments for the removal of public nuisance vessels, in addition to derelict vessels, from the public waters of the state. The bill also deletes and revises a reference to s. 376.15, F.S.

Sections 19, 20 and 21 reenacts ss. 327.73(1)(dd), 125.01(4), and 379.2412, F.S., to incorporate the amendments made by this bill to allow human-powered vessels to operate in the Florida Intracoastal Waterway for certain reasons, and to make clarifying revisions to the definition of marine and saltwater fish.

Section 22 provides that except as otherwise expressly provided, the effective date is July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate; local governments may benefit from expanded use of grant programs; expanded use of grant programs may necessitate the need for additional funding from state government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The amendment in Section 4 revises a section of law authorizing a Fish and Wildlife Conservation Commission or other law enforcement officer to determine if a vessel is at risk of becoming derelict. All existing criteria are related to the condition of the vessel, however the criteria the bill adds is unrelated to the condition of the vessel. A clarification may be appropriate.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 259.105, 327.352, 327.35215, 327.371, 327.4107, 327.46, 379.101, 705.101, 705.103, 823.11, 934.50, 327.04, 328.09, 328.72, and 376.11.

This bill repeals section 376.15 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 327.73(1)(dd), 125.01(4), and 379.2412.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on Agriculture, Environment and General Government on January 12, 2022:

The committee substitute:

- Amends the Florida Forever Act to require each lead land managing agency, in consultation with the Fish and Wildlife Conservation Commission (FWC), to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger than 40 contiguous acres.
 - If the recipient site management is not in conflict with the primary management objects of the parcel, the management plan must contain an assessment of feasibility of managing the site as a recipient site for gopher tortoise.
 - Each land management agency must consult with FWC on feasibility assessments and implementation of gopher tortoise management.
- Provides that gopher tortoise recipient sites should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection.

CS by Environment and Natural Resources on November 30, 2021:

- Requires that the Fish and Wildlife Conservation Commission, not the Department of Highway Safety and Motor Vehicles (department), provide the forms that a law enforcement officer must fill out upon arresting a person for refusing to submit to lawful a breath, blood, or urine test.
- Removes the requirement, created by the underlying bill, that the department must have substantial, competent evidence that shows demonstrable harm before establishing springs protection zones.
- Allows a person to operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway when participating in interscholastic, intercollegiate, intramural, or club athletic teams or sports affiliated with an education institution.
- Provides that the department may not issue a certificate of title to an applicant for a vessel that has been deemed a public nuisance after having been found at risk of becoming derelict three or more times within an 18-month period.
- Authorizes the department to issue a certificate of title once law enforcement has verified in writing that a vessel is no longer a public nuisance.
- Allows moneys from the Florida Coastal Protection Trust Fund to be granted to local governments for the removal of public nuisance vessels, in addition to derelict vessels, from the waters of the state.
- Reenacts the noncriminal infraction relating to the regulation of human-powered vessels to incorporate the amendment made by the strike-all.
- Retains all other provisions in the bill except as otherwise described.

B. Amendments:

None.

1 A bill to be entitled
2 An act relating to the Fish and Wildlife Conservation
3 Commission; amending s. 327.35215, F.S.; requiring
4 that certain forms relating to boating under the
5 influence be provided by the Fish and Wildlife
6 Conservation Commission rather than the Department of
7 Highway Safety and Motor Vehicles; amending s.
8 327.371, F.S.; authorizing certain athletic teams or
9 sports affiliated with specified educational
10 institutions to operate a human-powered vessel within
11 the marked channel of the Florida Intracoastal
12 Waterway; amending s. 327.4107, F.S.; revising the
13 vessel conditions that an officer of the commission or
14 a law enforcement agency may use to determine that a
15 vessel is at risk of becoming derelict; amending s.
16 327.46, F.S.; prohibiting municipalities and counties
17 from designating public bathing beach or swim areas
18 within their jurisdictions which are within the marked
19 channel portion of the Florida Intracoastal Waterway
20 or within a specified distance from any portion of the
21 marked channel; repealing s. 376.15, F.S., relating to
22 derelict vessels and the relocation and removal of
23 such vessels from the waters of this state; amending
24 s. 379.101, F.S.; revising the definitions of the
25 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; 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; 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, 327.352, 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 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

51 saltwater fish, respectively, to incorporate the
52 amendment made to s. 379.101(34), F.S., in a reference
53 thereto; providing effective dates.

54
55 Be It Enacted by the Legislature of the State of Florida:

56
57 Section 1. Subsection (2) of section 327.35215, Florida
58 Statutes, is amended to read:

59 327.35215 Penalty for failure to submit to test.—

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

73 Section 2. Present paragraph (c) of subsection (1) of
74 section 327.371, Florida Statutes, is redesignated as paragraph
75 (d), and a new paragraph (c) is added to that subsection, to

76 read:

77 327.371 Human-powered vessels regulated.—

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

81 (c) When participating in interscholastic,
82 intercollegiate, intramural, or club athletic teams or sports
83 that are affiliated with an educational institution identified
84 in s. 1000.21, s. 1002.01(2), s. 1003.01(2), s. 1005.02(4), or
85 s. 1005.03(1)(d).

86 Section 3. Paragraph (f) is added to subsection (2) of
87 section 327.4107, Florida Statutes, to read:

88 327.4107 Vessels at risk of becoming derelict on waters of
89 this state.—

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

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

96 Section 4. Paragraph (b) of subsection (1) of section
97 327.46, Florida Statutes, is amended to read:

98 327.46 Boating-restricted areas.—

99 (1) Boating-restricted areas, including, but not limited
100 to, restrictions of vessel speeds and vessel traffic, may be

101 established on the waters of this state for any purpose
102 necessary to protect the safety of the public if such
103 restrictions are necessary based on boating accidents,
104 visibility, hazardous currents or water levels, vessel traffic
105 congestion, or other navigational hazards or to protect
106 seagrasses on privately owned submerged lands.

107 (b) Municipalities and counties may establish the
108 following boating-restricted areas by ordinance, including,
109 notwithstanding the prohibition in s. 327.60(2)(c), within the
110 portion of the Florida Intracoastal Waterway within their
111 jurisdiction:

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

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

121 b. Within 500 feet of fuel pumps or dispensers at any
122 marine fueling facility that sells motor fuel to the general
123 boating public on waterways more than 300 feet in width or
124 within 300 feet of the fuel pumps or dispensers at any licensed
125 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 public bathing beach or swim areas may not be established in whole or in part within the marked channel of the Florida Intracoastal Waterway or within 100 feet of any portion of the marked channel.

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

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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 5. Section 376.15, Florida Statutes, is repealed.

Section 6. 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 ~~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 ~~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.

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176 Section 7. Subsection (3) of section 705.101, Florida
177 Statutes, is amended to read:

178 705.101 Definitions.—As used in this chapter:

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

186 Section 8. Paragraph (a) of subsection (2) and subsection
187 (4) of section 705.103, Florida Statutes, are amended to read:

188 705.103 Procedure for abandoned or lost property.—

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

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

197
198 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
199 PROPERTY. This property, to wit: ...(setting forth brief
200 description)... is unlawfully upon public property known as

201 ... (setting forth brief description of location) ... and must be
202 removed within 5 days; otherwise, it will be removed and
203 disposed of pursuant to chapter 705, Florida Statutes. The owner
204 will be liable for the costs of removal, storage, and
205 publication of notice. Dated this: ... (setting forth the date of
206 posting of notice) ..., signed: ... (setting forth name, title,
207 address, and telephone number of law enforcement officer)
208

209 b. A derelict vessel or a vessel declared a public
210 nuisance pursuant to s. 327.73(1)(aa) is present on the waters
211 of this state, the officer shall cause a notice to be placed
212 upon such vessel in substantially the following form:
213

214 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
215 VESSEL. This vessel, to wit: ... (setting forth brief
216 description) ... has been determined to be ... (derelict or a
217 public nuisance) ... and is unlawfully upon waters of this state
218 ... (setting forth brief description of location) ... and must be
219 removed within 21 days; otherwise, it will be removed and
220 disposed of pursuant to chapter 705, Florida Statutes. The owner
221 and other interested parties have the right to a hearing to
222 challenge the determination that this vessel is derelict or
223 otherwise in violation of the law. Please contact ... (contact
224 information for person who can arrange for a hearing in
225 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

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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 9. 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

351 PROPERTY. This property, to wit: ...(setting forth brief
352 description)... is unlawfully upon public property known as
353 ...(setting forth brief description of location)... and must be
354 removed within 5 days; otherwise, it will be removed and
355 disposed of pursuant to chapter 705, Florida Statutes. The owner
356 will be liable for the costs of removal, storage, and
357 publication of notice. Dated this: ...(setting forth the date of
358 posting of notice)..., signed: ...(setting forth name, title,
359 address, and telephone number of law enforcement officer)....
360

361 b. A derelict vessel or a vessel declared a public
362 nuisance pursuant to s. 327.73(1)(aa) is present on the waters
363 of this state, the officer shall cause a notice to be placed
364 upon such vessel in substantially the following form:
365

366 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
367 VESSEL. This vessel, to wit: ...(setting forth brief description
368 of location)... has been determined to be ...(derelict or a
369 public nuisance)... and is unlawfully upon the waters of this
370 state ...(setting forth brief description of location)... and
371 must be removed within 21 days; otherwise, it will be removed
372 and disposed of pursuant to chapter 705, Florida Statutes. The
373 owner and other interested parties have the right to a hearing
374 to challenge the determination that this vessel is derelict or
375 otherwise in violation of the law. Please contact ...(contact

376 information for person who can arrange for a hearing in
377 accordance with this section)... The owner or the party
378 determined to be legally responsible for the vessel being upon
379 the waters of this state in a derelict condition or as a public
380 nuisance will be liable for the costs of removal, destruction,
381 and disposal if this vessel is not removed by the owner. Dated
382 this: ...(setting forth the date of posting of notice)...,
383 signed: ...(setting forth name, title, address, and telephone
384 number of law enforcement officer)....

385
386 2. The notices required under subparagraph 1. may not be
387 less than 8 inches by 10 inches and must ~~shall~~ be sufficiently
388 weatherproof to withstand normal exposure to the elements. In
389 addition to posting, the law enforcement officer shall make a
390 reasonable effort to ascertain the name and address of the
391 owner. If such is reasonably available to the officer, she or he
392 shall mail a copy of such notice to the owner on or before the
393 date of posting. If the property is a motor vehicle as defined
394 in s. 320.01(1) or a vessel as defined in s. 327.02, the law
395 enforcement agency shall contact the Department of Highway
396 Safety and Motor Vehicles in order to determine the name and
397 address of the owner and any person who has filed a lien on the
398 vehicle or vessel as provided in s. 319.27(2) or (3) or s.
399 328.15. On receipt of this information, the law enforcement
400 agency shall mail a copy of the notice by certified mail, return

401 receipt requested, to the owner and to the lienholder, if any,
402 except that a law enforcement officer who has issued a citation
403 for a violation of ~~s. 376.15~~ or s. 823.11 to the owner of a
404 derelict vessel is not required to mail a copy of the notice by
405 certified mail, return receipt requested, to the owner. For a
406 derelict vessel or a vessel declared a public nuisance pursuant
407 to s. 327.73(1)(aa), the mailed notice must inform the owner or
408 responsible party that he or she has a right to a hearing to
409 dispute the determination that the vessel is derelict or
410 otherwise in violation of the law. If a request for a hearing is
411 made, a state agency shall follow the processes as set forth in
412 s. 120.569. Local governmental entities shall follow the
413 processes set forth in s. 120.569, except that a local judge,
414 magistrate, or code enforcement officer may be designated to
415 conduct such a hearing. If, at the end of 5 days after posting
416 the notice in sub-subparagraph 1.a., or at the end of 21 days
417 after posting the notice in sub-subparagraph 1.b., and mailing
418 such notice, if required, the owner or any person interested in
419 the lost or abandoned article or articles described has not
420 removed the article or articles from public property or shown
421 reasonable cause for failure to do so, and, in the case of a
422 derelict vessel or a vessel declared a public nuisance pursuant
423 to s. 327.73(1)(aa), has not requested a hearing in accordance
424 with this section, the following shall apply:

425 a. For abandoned property other than a derelict vessel or

426 a vessel declared a public nuisance pursuant to s.
427 327.73(1)(aa), the law enforcement agency may retain any or all
428 of the property for its own use or for use by the state or unit
429 of local government, trade such property to another unit of
430 local government or state agency, donate the property to a
431 charitable organization, sell the property, or notify the
432 appropriate refuse removal service.

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

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

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

442
443 A law enforcement agency or its designee may also take action as
444 described in this sub-subparagraph if, following a hearing
445 pursuant to this section, the judge, magistrate, administrative
446 law judge, or hearing officer has determined the vessel to be
447 derelict as provided in s. 823.11 or otherwise in violation of
448 the law in accordance with s. 327.73(1)(aa) and a final order
449 has been entered or the case is otherwise closed.

450 Section 10. 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.

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

479 (I) The steering system;

480 (II) The propulsion system; or

481 (III) The exterior hull integrity.

482
483 Attaching an outboard motor to a vessel that is otherwise
484 substantially dismantled will not cause the vessel to no longer
485 be substantially dismantled if such motor is not an effective
486 means of propulsion as required by s. 327.4107(2)(e) and
487 associated rules.

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

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

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

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

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(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~~

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~~available federal disaster funds and use such funds for the
removal of derelict vessels.~~

(a)~~(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)~~(c)~~ A contractor performing such activities at the direction of the commission, an officer of the commission, a law

551 enforcement agency or officer, or a governmental subdivision,
552 when the governmental subdivision has received authorization for
553 the relocation or removal from a law enforcement officer or
554 agency, pursuant to this section must be licensed in accordance
555 with applicable United States Coast Guard regulations where
556 required; obtain and carry in full force and effect a policy
557 from a licensed insurance carrier in this state to insure
558 against any accident, loss, injury, property damage, or other
559 casualty caused by or resulting from the contractor's actions;
560 and be properly equipped to perform the services to be provided.

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

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

566 (c) The commission may establish a program to provide
567 grants to local governments for the removal, storage,
568 destruction, and disposal of derelict vessels from the waters of
569 this state. This grant funding may also be used for the removal,
570 storage, destruction, and disposal of vessels declared a public
571 nuisance pursuant to s. 327.73(1) (aa). The program must be
572 funded from the Marine Resources Conservation Trust Fund or the
573 Florida Coastal Protection Trust Fund. Notwithstanding s.
574 216.181(11), funds available for these grants may only be
575 authorized by appropriations acts of the Legislature. In a given

576 fiscal year, if all funds appropriated pursuant to this
577 paragraph are not requested by and granted to local governments
578 for the removal, storage, destruction, and disposal of derelict
579 vessels or vessels declared a public nuisance pursuant to s.
580 327.73(1) (aa) by the end of the third quarter, the Fish and
581 Wildlife Conservation Commission may use the remainder of the
582 funds to remove, store, destroy, and dispose of, or to pay
583 private contractors to remove, store, destroy, and dispose of,
584 derelict vessels or vessels declared a public nuisance pursuant
585 to s. 327.73(1) (aa). The commission shall adopt by rule
586 procedures for local governments to submit a grant application
587 and criteria for allocating available funds. Such criteria must
588 include, at a minimum, the following:

589 1. The number of derelict vessels within the jurisdiction
590 of the applicant.

591 2. The threat posed by such vessels to public health or
592 safety, the environment, navigation, or the aesthetic condition
593 of the general vicinity.

594 3. The degree of commitment of the local government to
595 maintain waters free of abandoned and derelict vessels and to
596 seek legal action against those who abandon vessels in the
597 waters of this state as defined in s. 327.02.

598 (6)(5) A person, firm, or corporation violating this
599 section commits a misdemeanor of the first degree and shall be
600 punished as provided by law. A conviction under this section

601 does not bar the assessment and collection of a ~~the~~ civil
602 penalty ~~provided in s. 376.16 for violation of s. 376.15~~. The
603 court having jurisdiction over the criminal offense,
604 notwithstanding any jurisdictional limitations on the amount in
605 controversy, may order the imposition of such civil penalty in
606 addition to any sentence imposed for the first criminal offense.

607 (7) ~~(6)~~ If an owner or a responsible party of a vessel
608 determined to be derelict through an administrative or criminal
609 proceeding has been charged by an officer of the commission or
610 any law enforcement agency or officer as specified in s. 327.70
611 under subsection (5) for a violation of subsection (2) ~~or a~~
612 ~~violation of s. 376.15(2)~~, a person may not reside or dwell on
613 such vessel until the vessel is removed from the waters of the
614 state permanently or returned to the waters of the state in a
615 condition that is no longer derelict.

616 Section 11. Paragraph (p) of subsection (4) of section
617 934.50, Florida Statutes, is amended to read:

618 934.50 Searches and seizure using a drone.—

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

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

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Section 12. 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. 376.15 ~~and~~ 823.11 conferring powers or duties upon it.

Section 13. 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

651 be incidental to a lawful arrest and administered at the request
652 of a law enforcement officer who has reasonable cause to believe
653 such person was operating the vessel within this state while
654 under the influence of alcoholic beverages. The administration
655 of a breath test does not preclude the administration of another
656 type of test. The person must ~~shall~~ be told that his or her
657 failure to submit to any lawful test of his or her breath under
658 this chapter will result in a civil penalty of \$500, and ~~shall~~
659 ~~also be told~~ that if he or she refuses to submit to a lawful
660 test of his or her breath and he or she has been previously
661 fined under s. 327.35215 or his or her driving privilege has
662 been previously ~~had his or her driver license~~ suspended for
663 refusal to submit to any lawful test of his or her breath,
664 urine, or blood, he or she commits a misdemeanor of the first
665 degree, punishable as provided in s. 775.082 or s. 775.083, in
666 addition to any other penalties provided by law. The refusal to
667 submit to a chemical or physical breath test upon the request of
668 a law enforcement officer as provided in this section is
669 admissible into evidence in any criminal proceeding.

670 2. A person who accepts the privilege extended by the laws
671 of this state of operating a vessel within this state is, by
672 operating such vessel, deemed to have given his or her consent
673 to submit to a urine test for the purpose of detecting the
674 presence of chemical substances as set forth in s. 877.111 or
675 controlled substances if the person is lawfully arrested for any

676 offense allegedly committed while the person was operating a
677 vessel while under the influence of chemical substances or
678 controlled substances. The urine test must be incidental to a
679 lawful arrest and administered at a detention facility or any
680 other facility, mobile or otherwise, which is equipped to
681 administer such tests at the request of a law enforcement
682 officer who has reasonable cause to believe such person was
683 operating a vessel within this state while under the influence
684 of chemical substances or controlled substances. The urine test
685 must ~~shall~~ be administered at a detention facility or any other
686 facility, mobile or otherwise, which is equipped to administer
687 such test in a reasonable manner that will ensure the accuracy
688 of the specimen and maintain the privacy of the individual
689 involved. The administration of a urine test does not preclude
690 the administration of another type of test. The person must
691 ~~shall~~ be told that his or her failure to submit to any lawful
692 test of his or her urine under this chapter will result in a
693 civil penalty of \$500, and ~~shall also be told~~ that if he or she
694 refuses to submit to a lawful test of his or her urine and he or
695 she has been previously fined under s. 327.35215 or his or her
696 driving privilege has been previously ~~had his or her driver~~
697 ~~license~~ suspended for refusal to submit to any lawful test of
698 his or her breath, urine, or blood, he or she commits a
699 misdemeanor of the first degree, punishable as provided in s.
700 775.082 or s. 775.083, in addition to any other penalties

701 provided by law. The refusal to submit to a urine test upon the
702 request of a law enforcement officer as provided in this section
703 is admissible into evidence in any criminal proceeding.

704 (c) A person who accepts the privilege extended by the
705 laws of this state of operating a vessel within this state is,
706 by operating such vessel, deemed to have given his or her
707 consent to submit to an approved blood test for the purpose of
708 determining the alcoholic content of the blood or a blood test
709 for the purpose of determining the presence of chemical
710 substances or controlled substances as provided in this section
711 if there is reasonable cause to believe the person was operating
712 a vessel while under the influence of alcoholic beverages or
713 chemical or controlled substances and the person appears for
714 treatment at a hospital, clinic, or other medical facility and
715 the administration of a breath or urine test is impractical or
716 impossible. As used in this paragraph, the term "other medical
717 facility" includes an ambulance or other medical emergency
718 vehicle. The blood test shall be performed in a reasonable
719 manner. A person who is incapable of refusal by reason of
720 unconsciousness or other mental or physical condition is deemed
721 not to have withdrawn his or her consent to such test. A person
722 who is capable of refusal must ~~shall~~ be told that his or her
723 failure to submit to such a blood test will result in a civil
724 penalty of \$500. The refusal to submit to a blood test upon the
725 request of a law enforcement officer is ~~shall be~~ admissible in

evidence in any criminal proceeding.

Section 14. 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) ~~s. 376.15~~ or s. 823.11. A law enforcement officer must inform the department in writing, which may be provided by facsimile, electronic mail, or other electronic means, of the vessel's derelict 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, electronic mail, or other electronic means, that the vessel is no longer a derelict or a public nuisance vessel.

Section 15. Section 25 of chapter 2021-184, Laws of Florida, is repealed.

Section 16. 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

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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 17. 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 18. 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 19. 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

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826 government.

827 Section 20. Except as otherwise expressly provided in this
828 act, this act shall take effect July 1, 2022.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 323 Fish and Wildlife Conservation Commission
SPONSOR(S): Environment, Agriculture & Flooding Subcommittee, Sirois
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 494

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee	17 Y, 0 N, As CS	Gawin	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Fish and Wildlife Conservation Commission (FWC) is the agency responsible for regulating boating, wild animal life, fresh water aquatic life, and marine life in the state.

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public state waters; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the property owner. It is unlawful to store, leave, or abandon a derelict vessel in Florida. In addition, current law prohibits a vessel that is at risk of becoming derelict from anchoring, mooring, or occupying state waters. A vessel that has been the subject of three or more at-risk violations within an 18-month period is deemed a public nuisance.

The bill expands the types of vessels that may be considered at-risk vessels by authorizing an FWC or law enforcement officer to determine that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted structure or mooring. The bill also expands the definition of “abandoned property” to include vessels that have been declared a public nuisance to clarify that the laws and procedures that apply to abandoned property also apply to such vessels.

The bill specifies that an owner or party responsible for a vessel declared a public nuisance who does not remove the vessel within 21 days after a notice directing the removal is placed on the vessel is liable for all costs of removal, storage, destruction, and disposal of the vessel. In addition, the bill specifies that grants provided to local governments for the removal, storage, destruction, and disposal of derelict vessels may also be used for the removal, storage, destruction, and disposal of vessels declared a public nuisance.

The bill prohibits municipalities and counties from establishing public bathing beach or swim areas in whole or in part within the marked channel of the Florida Intracoastal Waterway or within 100 feet of any portion of the marked channel. The bill also authorizes a person to operate a human-powered vessel within the waterway when participating in certain club athletic teams or sports affiliated with an educational institution.

The bill authorizes a law enforcement employee of FWC or the Florida Forest Service to use drones for the purposes of managing and eradicating invasive exotic plants or animals on public lands and suppressing and mitigating wildfire threats.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is the agency responsible for regulating boating in the state.¹ Through its Division of Law Enforcement, FWC works to enforce a variety of state and federal boating laws, including regulations related to boating safety, waterway management, vessel maintenance, and marine sanitation. FWC also exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.² These powers include authority with respect to the control and management of nonnative plant and animal species.

Derelict Vessels

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public state waters; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property.³

It is unlawful to store, leave, or abandon⁴ a derelict vessel in Florida.⁵ Violations are punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.⁶ State law further provides that a violation of derelict vessel laws may also be subject to a civil penalty of up to \$75,000 per day.⁷ Each day during any portion of which the violation occurs constitutes a separate offense.⁸

At-risk Vessels

Current law also prohibits vessels that are at risk of becoming derelict from anchoring, mooring, or occupying state waters.⁹ A vessel is considered at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater.
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods.
- The vessel has broken loose or is in danger of breaking loose from its anchor.
- The vessel is listing due to water intrusion.
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic notice, in-person notice recorded on an agency-approved body camera, or written notice, which may be provided by facsimile, electronic mail, or other electronic means, stating such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.¹⁰

A violation for anchoring, mooring, or occupying a vessel at risk of becoming derelict on state waters is a noncriminal infraction, for which the civil penalty is \$100 for a first offense, \$250 for a second offense

¹ FWC, *Boating*, available at <https://myfwc.com/boating/> (last visited Nov. 22, 2021).

² Art. IV, s. 9, FLA. CONST.

³ Section 823.11(1)(b), F.S.

⁴ Section 705.101(3), F.S., defines “abandoned property” as 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.

⁵ Section 823.11(2), F.S.

⁶ Sections 775.082(4)(a) and 775.083(1)(d), F.S.

⁷ Section 376.16(1), F.S.

⁸ *Id.*

⁹ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

¹⁰ Section 327.4107(2), F.S.

occurring 30 days or more after a first offense, and \$500 for a third or subsequent offense occurring 30 days or more after a previous offense.¹¹

A vessel that has been the subject of three or more at-risk vessel violations within an 18-month period that result in dispositions other than acquittal or dismissal is deemed a public nuisance.¹²

Removal of Derelict and At-risk Vessels

The Division of Law Enforcement within FWC and its officers, and the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer, have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.¹³

Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs, or threatens to obstruct, navigation or in any way constitutes a danger to the environment, property, or persons.¹⁴ Such law enforcement are also authorized to relocate or remove a vessel declared a public nuisance.¹⁵

When a law enforcement officer determines that a derelict vessel or a vessel declared a public nuisance is present on state waters, the officer is required to place a notice on the vessel stating the vessel is unlawfully upon state waters and must be removed within 21 days.¹⁶ The notice must also specify that if the vessel is not removed by the owner within 21 days, the vessel will be removed and disposed of and that the owner or party deemed legally responsible for the vessel being in a derelict condition will be liable for costs of removal, destruction, and disposal if not removed.¹⁷

The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner. A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.¹⁸

FWC may provide grants to local governments for the removal, storage, destruction, and disposal of derelict vessels from state waters if funds are appropriated for such grants.¹⁹ Grants are awarded based on a set of criteria outlined in FWC rules.²⁰ Removal or relocation of the vessel on private property is not eligible for grant funding.²¹

Boating-restricted Areas

Boating-restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on state waters 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.²²

¹¹ Section 327.73(1)(aa), F.S.

¹² *Id.*

¹³ Section 943.10(1), F.S., defines “law enforcement officer” as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

¹⁴ Sections 376.15(3)(a) and 823.11(3), F.S.

¹⁵ *Id.*

¹⁶ Section 705.103(2)(a)(1)(b), F.S.

¹⁷ *Id.*

¹⁸ Section 705.103(4), F.S.

¹⁹ Section 376.15, F.S.

²⁰ Rule 68-1.003, F.A.C.

²¹ National Oceanic and Atmospheric Association: Marine Debris Program, *Abandoned and Derelict Vessels in Florida*, available at <https://marinedebris.noaa.gov/abandoned-and-derelict-vessels/florida> (last visited Nov. 18, 2021).

²² Section 327.46(1), F.S.

FWC may establish a boating-restricted area pursuant to the Administrative Procedure Act, and municipalities and counties have the authority to establish the following boating-restricted areas by ordinance, including within the portion of the Florida Intracoastal Waterway within their jurisdiction:²³

- An ordinance establishing an idle speed, no wake boating-restricted area, if the area is:
 - 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.
 - 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.
 - Inside or within 300 feet of any lock structure.
- An ordinance establishing a slow speed, minimum wake boating-restricted area if the area is:
 - Within 300 feet of any bridge fender system.
 - 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.
 - On a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline.
 - On a lake or pond of less than 10 acres in total surface area.
 - Within the boundaries of a permitted public mooring field and a buffer around the mooring field of up to 100 feet.
- An ordinance establishing a vessel-exclusion zone if the area is designated as a public bathing beach or swim area or within 300 feet of a dam, spillway, or flood control structure.

Florida Intracoastal Waterway

The Intracoastal Waterway is a navigable toll-free shipping route, extending for about 3,000 miles along the Atlantic Ocean and Gulf of Mexico coasts in the southern and eastern U.S. It utilizes sounds, bays, lagoons, rivers, and canals and is usable in many portions by deep-draft vessels. The route is federally maintained and is connected to inland waterways in many places. It was originally planned to form a continuous channel from New York City to Brownsville, Texas, but the necessary canal link through northern Florida was never completed; hence, it is now in two separate sections—the Atlantic and the Gulf.²⁴

The Florida Intracoastal Waterway refers to the Atlantic Intracoastal Waterway, the Georgia state line north of Fernandina to Miami; the Port Canaveral lock and canal to the Atlantic Intracoastal Waterway; the Atlantic Intracoastal Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to Fort Myers; the St. Johns River, Jacksonville to Sanford; the Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to Anclote open bay section, using the Gulf of Mexico; the Gulf Intracoastal Waterway, Carrabelle to the Alabama state line west of Pensacola; and the Apalachicola, Chattahoochee, and Flint Rivers in Florida.²⁵

Nonnative Plant and Animal Species

Nonnative²⁶ species are animals or plants living in Florida outside captivity or human cultivation that were not historically present in the state.²⁷ More than 500 fish and wildlife nonnative species have been documented in Florida, and over 1,180 nonnative plant species have become established outside of

²³ Sections 327.46(1)(a) and (b), F.S.

²⁴ Encyclopedia Britannica, *Intracoastal Waterway*, available at <https://www.britannica.com/topic/Intracoastal-Waterway> (last visited Nov. 18, 2021).

²⁵ Section 327.02(15), F.S.

²⁶ The terms “nonnative” and “exotic” have the same meaning and are used interchangeably.

²⁷ FWC, *Nonnative Species Information*, available at <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Nov. 18, 2021).

human cultivation.²⁸ Not all nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.²⁹

To manage and minimize the impacts of nonnative animal species, individuals may not import, introduce, or possess any nonnative animal species without a permit from FWC.³⁰ Permittees who possess these species must meet certain requirements set by FWC related to identifying, inspecting, and transporting such species as well as record-keeping requirements and certain captivity requirements to prevent escape. Permittees are also required to maintain disaster incident plans and detailed research plans.³¹ To further manage invasive and nonnative species, FWC provides public education, exotic pet amnesty days to surrender nonnative pets to pre-qualified adopters,³² and nonnative species eradication programs for fish and wildlife as well as plants.

FWC's Nonnative Fish and Wildlife Program aims to minimize the adverse impacts of nonnative animal species through prevention, early detection, rapid response, control and management, and education and outreach. The program staff work to monitor and remove nonnative species, respond to new invasions, and assess the risk of species not yet present in the state.³³

FWC's Upland Invasive Exotic Plant Management Program conducts invasive plant removal on public conservation lands throughout the state.³⁴ Invasive plant removal projects are recommended by a network of regional invasive plant working groups, which are comprised of local land managers who are interested in or responsible for maintaining and restoring federal, state, and local government conservation land. The program identifies areas that are in need of restoration and hires private vegetation management contractors to do the removal.³⁵ The Upland Invasive Plant Management Program has conducted 2,000 invasive plant control operations targeting 2.7 million acres and has assisted land managers on 700 federal, state, and county-managed natural areas that comprise over 10 million acres, or 90 percent of public conservation land in the state.³⁶

Drones

Under Florida law, a drone is a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.³⁷

The full system comprised of a drone and its associated elements, including communication links and components used to control the drone, is called an unmanned aircraft system.³⁸ Drones can range vastly in size and weight and may be controlled manually or through an autopilot that uses a data link to

²⁸ Nicole Dodds, Mary Miller, and Alexa Lamm, University of Florida Institute of Food and Agricultural Sciences, *Floridians' Perceptions of Invasive Species*, Feb. 2014, p. 1, available at <http://edis.ifas.ufl.edu/pdf/IFAS/WC/WC18600.pdf> (last visited Nov. 18, 2021).

²⁹ FWC, *Florida's Nonnative Fish and Wildlife*, available at <https://myfwc.com/wildlifehabitats/nonnatives/> (last visited Nov. 18, 2021).

³⁰ Section 379.231(1), F.S.

³¹ Rule 68-5.005, F.A.C.

³² FWC, *Exotic Pet Amnesty Programs*, available at <https://myfwc.com/wildlifehabitats/nonnatives/amnesty-program/> (last visited Nov. 18, 2021); r. 68-5.008, F.A.C.

³³ FWC, *Florida's Nonnative Fish and Wildlife*, available at <https://myfwc.com/wildlifehabitats/nonnatives/> (last visited Nov. 18, 2021).

³⁴ FWC, *Upland Plant Management*, available at <https://myfwc.com/wildlifehabitats/habitat/invasive-plants/upland-plant/> (last visited Nov. 18, 2021); s. 369.252, F.S.

³⁵ *Id.*

³⁶ *Id.*

³⁷ Section 934.50(2)(a), F.S.

³⁸ Section 330.41(2)(c), F.S.

connect the drone's pilot to the drone. Drones can also be equipped with infrared cameras³⁹ and "LADAR" (laser radar).⁴⁰

Restrictions on Drone Use

Section 934.50, F.S., restricts the use of drones by individuals and government entities to conduct surveillance. The law recognizes that a real property owner is presumed to have a reasonable expectation of privacy on his or her privately owned real property if he or she cannot be seen by persons at ground level who are in a place they have a legal right to be.⁴¹ Thus, law enforcement may not use a drone to gather evidence or other information, with certain exceptions. When law enforcement has reasonable suspicion that swift action is needed, drone use is permitted to:

- Prevent imminent danger to life or serious damage to property;
- Forestall the imminent escape of a suspect or the destruction of evidence; or
- Achieve certain purposes such as facilitating the search for a missing person.⁴²

Other exceptions for which drone use is authorized include:

- Countering terrorist attacks;
- Effecting search warrants authorized by a judge;
- Lawful business activities licensed by the state, with certain exceptions;
- Assessing property for ad valorem taxation purposes;
- Capturing images of utilities for specified purposes;
- Aerial mapping;
- Cargo delivery;
- Capturing images necessary for drone navigation; and
- Routing, siting, installing, maintaining, or inspecting communications service facilities.⁴³

Additionally, current law allows the use of a drone by non-law enforcement employees of FWC or 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.⁴⁴

Section 934.50, F.S., specifies that evidence obtained or collected by a law enforcement agency using a drone is not admissible in a criminal prosecution in any court of law in the state, unless it is permitted under one of the statute's exceptions.⁴⁵

Use of Drones for Managing Invasive Species and Suppressing and Mitigating Wildfire Threats

Remote sensing using drones for the surveillance, detection, and reporting of an invasive species on a landscape scale can improve early detection of invading plants and animals, making their management more efficient and less expensive.⁴⁶ Studies have shown that drones can efficiently and inexpensively cover a large geographic range, reach places that are physically difficult for humans to access, cover substantially more territory and topography, carry a variety of cameras and sensors, collect biological

³⁹ Infrared cameras can see objects through walls based on the relative levels of heat produced by the objects. Congressional Research Service, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, Apr. 3, 2013, available at www.fas.org/sgp/crs/natsec/R42701.pdf (last visited Nov. 18, 2021).

⁴⁰ The research and development laboratory at the Massachusetts Institute of Technology has developed airborne ladar systems that generate detailed 3D imagery of terrain and structures, including those beneath dense foliage. The lab reports that the micro-ladar could be used under both clear and heavy foliage conditions for surveillance and reconnaissance missions as well as for humanitarian assistance and disaster relief operations. Massachusetts Institute of Technology, *Micro-ladar*, available at <https://www.ll.mit.edu/r-d/projects/micro-ladar> (last visited Nov. 18, 2021).

⁴¹ Sections 934.50(3)(a) and 934.50(4), F.S.

⁴² Section 943.50(4)(c), F.S.

⁴³ Sections 943.50(4)(a)-(b) and 943.50(4)(d)-(j), F.S.

⁴⁴ Section 943.50(4)(p), F.S.

⁴⁵ Section 934.50(6), F.S.

⁴⁶ Barbara Martinez, Alex Dehgan, Brad Zamft, David Baisch, Colin McCormick, Anthony J. Giordano, Rebecca Aicher, Shah Selbe, Cassie Hoffman, *Advancing federal capacities for the early detection of and rapid response to invasive species through technology innovation*, National Invasive Species Council: Contractor's Report, Mar. 2017, available at https://www.doi.gov/sites/doi.gov/files/uploads/federal_capacities_for_edrr_through_technology_innovation_contractorsreport_10.22.18.pdf (last visited Nov. 18, 2021).

specimens, and target and eliminate individual organisms through ballistic application of herbicides.⁴⁷ Current law allows only non-law enforcement employees of FWC and the Florida Forest Service to use drones for such purposes.

Effect of the Bill

Derelict and At-risk Vessels

The bill expands the types of vessels that may be considered at-risk vessels by authorizing an FWC or law enforcement officer to determine that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted structure or mooring.

The bill expands the definition of “abandoned property” to include vessels that have been declared a public nuisance to clarify that the laws and procedures that apply to abandoned property also apply to such vessels.

The bill specifies that an owner or party responsible for a vessel declared a public nuisance who does not remove the vessel within 21 days after a notice directing the removal is placed on the vessel is liable for all costs of removal, storage, destruction, and disposal of the vessel. The bill also requires the notice to inform the owner or responsible party of this liability.

Upon the final disposition of a derelict vessel or vessel declared a public nuisance, the bill requires the law enforcement agency or other government agency to notify the owner or other party determined to be legally responsible for the vessel of the amount owed.

The bill prohibits the Department of Highway Safety and Motor Vehicles from issuing a certificate of title to an applicant for a vessel that has been deemed a public nuisance unless a law enforcement officer has verified in writing that the vessel is no longer a public nuisance.

The bill specifies that FWC, an FWC officer, or a law enforcement agency or officer may relocate, remove, and store a derelict vessel, but may not destroy or dispose of the vessel.

The bill specifies that grants provided to local governments for the removal, storage, destruction, and disposal of derelict vessels may also be used for the removal, storage, destruction, and disposal of vessels declared a public nuisance. The bill also specifies that such grants may be funded using money in the Florida Coastal Protection Trust Fund.

The bill repeals s. 376.15, F.S., to remove duplicative provisions related to derelict vessels and transfers non-duplicative provisions to s. 832.11, F.S.

Boating-restricted Areas

The bill prohibits municipalities and counties from establishing public bathing beach or swim areas in whole or in part within the marked channel of the Florida Intracoastal Waterway or within 100 feet of any portion of the marked channel.

The bill authorizes a person to operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway when participating in interscholastic, intercollegiate, intramural, or club athletic teams or sports affiliated with an educational institution.

Drones

The bill authorizes a law enforcement employee of FWC or the Florida Forest Service to use drones for the purposes of managing and eradicating invasive exotic plants or animals on public lands and suppressing and mitigating wildfire threats.

Clarifying Provisions

⁴⁷ *Id.*

The bill clarifies the definitions of “marine fish” and “saltwater fish” to reflect updates in the scientific classification of certain identifying terminology.

The bill revises provisions related to boating under the influence to clarify that certain forms are provided by FWC.

B. SECTION DIRECTORY:

- Section 1. Amends s. 327.35215, F.S., relating to penalties for failure to submit to a blood, breath, or urine test.
- Section 2. Amends s. 327.371, F.S., relating to human-powered vessels
- Section 3. Amends s. 327.4107, F.S., to specify that vessels tied to unlawful or unpermitted moorings or other structures are considered at risk of becoming derelict.
- Section 4. Amends 327.46, F.S., to prohibit the designation of public bathing beaches in certain areas.
- Section 5. Repeals s. 376.15, F.S., related to the relocation and removal of derelict vessels.
- Section 6. Amends s. 379.101, F.S., to clarify the definitions of “marine fish” and “saltwater fish.”
- Section 7. Amends s. 705.101, F.S., to expand the definition of “abandoned property” to include vessels declared a public nuisance.
- Section 8. Amends s. 705.103, F.S., to specify requirements for vessels declared a public nuisance.
- Section 9. Effective July 1, 2023, amends s. 705.103, F.S., as amended by chs. 2019-76 and 2021-184, L.O.F., to specify notice requirements for vessels deemed a public nuisance.
- Section 10. Amends s. 823.11, F.S., related to derelict vessel relocation and removal.
- Section 11. Amends s. 934.50, F.S., to authorize FWC law enforcement officers to use drones for specified purposes.
- Section 12. Amends s. 327.04, F.S., to make conforming changes.
- Section 13. Amends s. 327.352, F.S., relating to tests for alcohol, chemical substances, or controlled substances.
- Section 14. Amends s. 328.09, F.S., to specify certificates of title may not be issued to an applicant for a vessel deemed a public nuisance.
- Section 15. Repeals s. 25 of ch. 2021-184, L.O.F., relating to refusal to issue and authority to cancel a certificate of title or registration.
- Section 16. Amends s. 328.72, F.S., to make conforming changes.
- Section 17. Amends s. 376.11, F.S., to authorize funds from the Florida Coastal Protection Trust Fund to be used for the removal of public nuisance vessels from the waters of the state.
- Section 18. Reenacts s. 125.01, F.S., relating to powers and duties of county organization and intergovernmental relations.

Section 19. Reenacts s. 379.2412, F.S., relating to state preemption of the power to regulate the taking or possession of saltwater fish.

Section 20. Provides an effective date of July 1, 2022, except as otherwise expressly provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires FWC to adopt by rule procedures for local governments to apply for grant funding to remove vessels declared a public nuisance.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On December 1, 2021, the Environment, Agriculture & Flooding Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Made technical changes related to boating while impaired or intoxicated;
- Removed a provision related to springs protection areas;
- Authorized a person to operate a human-powered vessel within the Florida Intracoastal Waterway when participating in certain activities;
- Prohibited the Department of Highway Safety and Motor Vehicles from issuing a certificate of title to an applicant for a vessel that has been deemed a public nuisance; and
- Specified that money from the Florida Coastal Protection Trust Fund may be used to remove public nuisance vessels.

This analysis is drafted to the committee substitute as approved by the Environment, Agriculture & Flooding Subcommittee.

By Senator Garcia

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A bill to be entitled
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 the terms
"convicted" and "conviction"; amending s. 327.54,
F.S.; defining terms; prohibiting liveries, beginning
on a specified date, 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 specified boating safety education courses
for certain instructors; requiring a person receiving
safety instruction to provide the livery with a
specified signed attestation; requiring liveries to
report certain issues and accidents; requiring
liveries to make facilities and records available to
law enforcement upon notice; providing penalties for
violations and additional penalties for subsequent
violations; prohibiting violators from operating a
vessel or 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.

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30 327.73, F.S.; increasing fines for violations of
31 certain boating regulations; providing fines for
32 improper transfers of title and failures to update
33 vessel registration information; authorizing certain
34 fees and penalties deposited into the Marine Resources
35 Conservation Trust Fund to be used for law enforcement
36 purposes; amending s. 327.731, F.S.; imposing a fine
37 for persons convicted of certain criminal or
38 noncriminal infractions; providing for the deposit of
39 such fines into the Marine Resources Conservation
40 Trust Fund; requiring the commission to maintain a
41 program to ensure compliance with certain boating
42 safety education requirements; specifying requirements
43 for the program; amending s. 328.03, F.S.; providing
44 that an improper transfer of vessel title is subject
45 to a civil penalty; amending s. 328.48, F.S.;
46 requiring that the address provided in a vessel
47 registration application and a certificate of
48 registration be a physical residential or business
49 address; authorizing the commission to accept post
50 office box addresses in lieu of the physical
51 residential or business address under certain
52 circumstances; providing that a person who fails to
53 update his or her vessel registration information
54 within a specified timeframe is subject to a civil
55 penalty; providing an appropriation to, and
56 authorizing positions for, the commission to create an
57 Illegal Boating Strike Team; providing the duties of
58 the strike team; providing additional appropriations

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to the commission and authorizing a position for a
specified purpose; 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, which must 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. Section 327.54, Florida Statutes, is amended to
read:

327.54 Liveries; safety regulations; penalty.—

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

(a) "Conviction" means any judicial disposition other than
acquittal or dismissal.

(b) "Livery" means a person who offers a 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

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captain, a crew, or any type of staff or personnel to operate, oversee, maintain, or manage the vessel. A vessel rented or leased by a livery is a livery vessel as defined in s. 327.02.

(c) "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) Beginning on January 1, 2023, 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 paragraph (3)(j), 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.

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

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

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

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

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

130 (e) ~~When the vessel is equipped with a motor of 10~~
131 ~~horsepower or greater,~~ Unless the livery provides pre-rental
132 ~~prerental~~ or pre-ride ~~preride~~ instruction in compliance with
133 rules established by the commission. The instruction must
134 include ~~that includes,~~ but need not be limited to:

135 1. Operational characteristics of the vessel to be rented.
136 2. Safe vessel operation and vessel right-of-way.
137 3. The responsibility of the vessel operator for the safe
138 and proper operation of the vessel.

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

142 5. Emergency procedures such as appropriate responses to
143 capsizing, falls overboard, taking on water, and vessel
144 accidents.

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~~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 a list of the names, addresses, and dates of birth for all persons who will be 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.

(h) 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).

(i) Who is under 18 years of age.

(j) 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 against any accident, loss, injury, property damage, or other casualty caused by or resulting from the operation of the vessel. The insurance policy must provide coverage of at least \$500,000 per person and \$1 million per event. The livery shall have proof of such insurance

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175 available for inspection at the location where the livery's
176 vessels are being leased or rented, or offered for lease or
177 rent, and shall provide to each renter the insurance carrier's
178 name and address and the insurance policy number.

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

186 (5) A person who receives instruction regarding the safe
187 operation of vessels or pre-rental or pre-ride instruction in
188 accordance with subsection (3) must provide the livery with a
189 signed form attesting to each component of the instruction.

190 (a) The commission shall establish by rule the content of
191 the form.

192 (b) The form must be signed by the individual providing the
193 instruction.

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

197 ~~(2) A livery may not knowingly lease, hire, or rent a~~
198 ~~vessel to a person who is required to comply with s. 327.395~~
199 ~~unless such person presents to the livery the documentation~~
200 ~~required by s. 327.395(2) for the operation of a vessel or meets~~
201 ~~the exemption provided under s. 327.395(6)(f).~~

202 (6)~~(3)~~ If a vessel rented or leased by a livery is
203 unnecessarily overdue more than 1 hour after the contracted

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vessel rental time has expired, the livery must ~~shall~~ notify law enforcement and the United States Coast Guard ~~the proper~~ authorities.

(7) If a vessel rented or leased by a livery is involved in an accident, the livery must, as applicable under s. 327.301, report the accident.

(8) 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.

(9) (a) A person who violates this section other than subsection (2), but 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.

(10) 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. Beginning January 1, 2023,

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the commission may revoke or refuse to issue a permit under
subsection (2) based on repeated violations of this section.

~~(4) (a) A livery may not knowingly lease, hire, or rent a
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.~~

~~(c) 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.~~

~~(5) A livery may not lease, hire, or rent any personal
watercraft or offer to lease, hire, or rent any personal
watercraft unless the livery first obtains and carries in full
force and effect a policy from a licensed insurance carrier in
this state, insuring against any accident, loss, injury,
property damage, or other casualty caused by or resulting from
the operation of the personal watercraft. The insurance policy
shall provide coverage of at least \$500,000 per person and \$1
million per event. The livery must have proof of such insurance
available for inspection at the location where 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.~~

~~(6) Any person convicted of violating this section commits
a misdemeanor of the second degree, punishable as provided in s.~~

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~~775.082 or s. 775.083.~~

Section 4. 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.

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(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.

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(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.

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(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,

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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.

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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 5. 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:

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(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 6. 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

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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 7. 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 8. 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

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494 application must ~~shall~~ provide the owner's name and physical
495 residential or business address; residency status; personal or
496 business identification; and a complete description of the
497 vessel, and must ~~shall~~ be accompanied by payment of the
498 applicable fee required in s. 328.72. An individual applicant
499 must provide a valid driver license or identification card
500 issued by this state or another state or a valid passport. A
501 business applicant must provide a federal employer
502 identification number, if applicable, verification that the
503 business is authorized to conduct business in this ~~the~~ state, or
504 a Florida city or county business license or number.
505 Registration is not required for any vessel that is not used on
506 the waters of this state. Upon receipt of an application from a
507 live-aboard vessel owner, the commission may authorize such
508 owner to provide a post office box address in lieu of a physical
509 residential or business address so long as he or she has not
510 been convicted of a criminal offense under this chapter or
511 chapter 327.

512 (4) Each certificate of registration issued must ~~shall~~
513 state among other items the numbers awarded to the vessel, the
514 hull identification number, the name and physical residential or
515 business address of the owner, and a description of the vessel,
516 except that certificates of registration for vessels constructed
517 or assembled by the owner registered for the first time must
518 ~~shall~~ state all the foregoing information except the hull
519 identification number. The numbers must ~~shall~~ be placed on each
520 side of the forward half of the vessel in such position as to
521 provide clear legibility for identification, except, if the
522 vessel is an airboat, the numbers may be placed on each side of

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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, the commission may authorize such owner to provide a post office box address in lieu of a physical residential address so long as he or she has not been convicted of a criminal offense under this chapter or chapter 327.

(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 9. For the 2022-2023 fiscal year, the sum of \$2 million in recurring funds is appropriated from the General Revenue Fund to the Fish and Wildlife Conservation Commission and 7 full-time equivalent positions with associated salary rate of 322,763 are authorized to create an Illegal Boating Strike Team for the purpose of coordinating law enforcement at the federal, state, and local levels to increase public safety and decrease boating accidents, injuries, fatalities, and criminal activity. In areas where illegal charters and illegal liveries are found to be operating, the strike team shall do all of the

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following:

(1) Enhance law enforcement activities by increasing intergovernmental coordination to address any criminal conduct or safety violations, taxes and fees, and licensure regulations by such charter and livery operations.

(2) Address unsafe customer pick-ups and drop-offs.

(3) Improve signage and set appropriate speed limits in waterways.

(4) Ensure that correct and current information is used for vessel registration.

(5) Publicize existing reporting systems and use social media to encourage citizens to report illegal activities.

(6) Develop educational campaigns to address and deter illegal charter operations, illegal livery operations, boating under the influence, and related public safety issues and to encourage the reporting of boating violations.

Section 10. For the 2022-2023 fiscal year, the sum of \$100,000 in recurring funds from the General Revenue Fund is appropriated to the Fish and Wildlife Conservation Commission and one full-time equivalent position with associated salary rate of 60,000 is authorized to implement the amendment made to s. 327.731, Florida Statutes, by this act relating to ensuring compliance with mandatory boating safety education requirements.

Section 11. For the 2022-2023 fiscal year, the sum of \$125,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Fish and Wildlife Conservation Commission for the purpose of implementing the livery permitting requirement in s. 327.54(2), Florida Statutes.

Section 12. Except as otherwise expressly provided in this

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581 act, this act shall take effect July 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 606

INTRODUCER: Senator Garcia

SUBJECT: Boating Safety

DATE: November 29, 2021 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson/Carroll	Rogers	EN	Favorable
2.			AEG	
3.			AP	

I. Summary:

SB 606 creates the “Boating Safety Act of 2022.”

Relating to liveries, the bill:

- Requires a no-cost, annual livery permit, effective January 1, 2023.
- Requires liveries to implement certain safety requirements.
- Adds penalties for violations of livery requirements.

The bill increases or adds penalties for noncriminal infractions of vessel safety laws. It increases the additional civil penalty for noncriminal infractions of vessel laws from \$50 to \$100. It directs certain penalties to the Marine Resource Conservation Trust Fund (MRCTF) to supplement law enforcement activities.

Relating to boating safety programs, the bill:

- Adds a \$500 fine for certain vessel operators.
- Requires FWC to maintain a program to ensure compliance with mandatory boating safety education requirements.
- Creates the Illegal Boating Strike Team to enhance law enforcement activities.

The bill requires a physical residential or business address for vessel registration applicants, with a limited exception for live-aboard vessel owners.

The bill provides appropriations to create the Illegal Boating Strike Team, enhance compliance with mandatory boating safety education requirements, and implement the no-cost livery permitting requirement.

II. Present Situation:

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.¹ FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate.² Under Article IV, Section 9 of the Florida Constitution, FWC has the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.

Chapters 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.³ The Division of Law Enforcement manages the state's waterways to ensure boating safety for residents of and visitors to the state.⁴ This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.⁵

Regulation of Liveries

A livery vessel is defined as a vessel that is leased, rented, or chartered to another for consideration.⁶ A livery may not knowingly lease, hire, or rent vessels:

- When the number of persons intending to use the vessel exceeds the number considered to constitute a maximum safety load for the vessel.
- When the horsepower of the motor exceeds the capacity of the vessel.
- When the vessel does not contain required safety equipment.
- When the vessel is not seaworthy.
- When the vessel is equipped with a motor of 10 horsepower or greater, unless the livery provides required pre-rental or pre-ride instruction, which must be provided by a person who has successfully completed a National Association of State Boating Law Administrators (NASBLA) and state-approved boater safety course.
- Unless the livery displays boating safety information in a place visible to the renting public.⁷

¹ FLA. CONST. art. IV, s. 9.

² *Id.*; see also s. 379.102(1), F.S.

³ Section 327.70(1), F.S.; see s. 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

⁴ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Nov. 22, 2021).

⁵ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Nov. 22, 2021). See s. 327.70(1) and (4), F.S.

⁶ Section 327.02(24), F.S.

⁷ Section 327.54(1), F.S.

A livery also may not knowingly lease, hire, or rent:

- Vessels powered by a motor of 10 horsepower or greater to any person who is required to comply with boater safety education requirements, unless the person presents photographic identification and a valid boater safety identification card to the livery, or meets one of the listed exemptions.⁸
- Personal watercraft to persons under 18 years of age or who have not received instruction in the safe handling of personal watercraft and provided a written statement attesting to that fact.⁹
- Personal watercraft without a proper insurance policy.¹⁰

Liveries are required to notify the proper authorities if a leased, hired, or rented vessel is unnecessarily overdue.¹¹ Violations of livery regulations are a second-degree misdemeanor.¹²

Boating Infractions and Penalties

Chapter 327, F.S., the “Florida Vessel Safety Law,” addresses boating violations.¹³ The law imposes a statutory duty to assist other persons in a vessel collision or accident, provide information to any injured parties or the owner of damaged property, and provide notice to law enforcement of the accident.¹⁴ Leaving the scene of an accident that resulted in personal injury is a third-degree felony, and leaving the scene of an accident that resulted in property damage is a second-degree misdemeanor.¹⁵

Section 327.73, F.S., sets forth the fines for noncriminal infractions of the Florida Vessel Safety Law. Unless otherwise specified, the civil penalty for a noncriminal infraction is \$50.¹⁶ If a person fails to appear or respond to a uniform boating citation, he or she is charged with the offense of failing to respond to a citation. Upon conviction, such person will be guilty of a second-degree misdemeanor.¹⁷ Noncriminal violations include operating with an expired registration, operating without a registration, and failing to display the appropriate registration information.

Several noncriminal violations are subject to increased penalties for additional offenses. For example, for a violation of navigation rules that does not result in an accident or that results in an accident without serious bodily injury or death, there is a maximum penalty of:

- \$250 for a first offense;
- \$750 for a second offense; and
- \$1,000 for a third or subsequent offense.¹⁸

⁸ Section 327.54(2), F.S.

⁹ Section 327.54(4), F.S.

¹⁰ Section 327.54(5), F.S.

¹¹ Section 327.54(3), F.S.

¹² Section 327.54(6), F.S.

¹³ Section 327.01, F.S.

¹⁴ Section 327.30(1), (2), and (3), F.S.

¹⁵ Section 327.30, F.S.

¹⁶ Section 327.73(1), F.S.

¹⁷ *Id.*

¹⁸ Section 327.73(o), F.S.

For violating a springs protection zone, or operating a vessel in a careless manner that causes seagrass scarring within an aquatic preserve, except the Lake Jackson, Ocklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, the penalty is:

- \$50 for a first offense;
- \$250 for a second offense occurring within 12 months of a prior conviction;
- \$500 for a third offense occurring within 36 months of a prior conviction; and
- \$1,000 for a fourth or subsequent offense occurring within 72 months of a prior conviction.¹⁹

For anchoring in an anchoring limitation area and anchoring or mooring in a prohibited area, the penalty is:

- A maximum of \$50 for a first offense;
- A maximum of \$100 for a second offense; and
- A maximum of \$250 for a third or subsequent offense.²⁰

For violating areas where vessels creating special hazards are operating, the penalty is:

- \$50 for a first offense;
- \$100 for a second offense occurring within 12 months of a prior offense; and
- \$250 for a third offense occurring within 36 months of a prior offense.²¹

Mandatory Education for Violators

A person who is convicted of two non-criminal boating safety infractions within a 12-month period must enroll in, attend (in-person or online), and successfully complete a NASBLA and state-approved boater education course.²² The person must file proof of completion of the course with FWC's Boating and Waterways Section within 90 days of the violation and is not permitted to operate a vessel until proof is filed.²³

A person who is convicted of a criminal boating violation or a noncriminal boating safety infraction that resulted in a boating accident must complete the boater education course,²⁴ as well as a separate course for violators. The provider of the course for violators automatically sends proof of completion electronically to FWC.²⁵

Marine Resources Conservation Trust Fund

¹⁹ Section 327.73(x) and (y), F.S.

²⁰ Section 327.73(z) and (bb), F.S.

²¹ Section 327.73(cc), F.S.

²² Section 327.731(1)(a), F.S.

²³ Section 327.731(1)(b) and (c), F.S.

²⁴ Section 327.731(1), F.S.; see also FWC, *Mandatory Boating Education*, <https://myfwc.com/boating/regulations/mandatory-boating-education/> (last visited Oct. 6, 2021).

²⁵ FWC, *Mandatory Boating Education*, <https://myfwc.com/boating/regulations/mandatory-boating-education/> (last visited Oct. 6, 2021).

The Marine Resources Conservation Trust Fund (MRCTF) within FWC serves as a broad-based depository for funds from various marine-related and boating-related activities.²⁶ FWC can administer the trust fund for the following purposes:

- Marine research;
- Fishery enhancement;
- Marine law enforcement;
- Administration of licensing programs for recreational fishing, saltwater products sales, and related information and education activities;
- FWC operations;
- Titling and registration of vessels;
- Marine turtle protection, research, and recovery activities;
- Rehabilitation of oyster harvesting areas;
- Boating research, boating-related programs and activities, and law enforcement on state waters; and
- The stone crab trap reduction program, the blue crab effort management program, the spiny lobster trap certificate program, and the trap retrieval program.²⁷

The MRCTF will receive the proceeds from:

- All license fees for purse seines, saltwater products, nets, special activities, Apalachicola Bay oyster harvesting, and wholesale and retail saltwater products dealers;
- All funds collected from vessel registration and other related fees;
- All fees related to the spiny lobster, blue crab, and black sea bass trap retrieval program; the tarpon license program; the stone crab take endorsement; the blue crab take endorsement; and the spiny lobster trap certificate program;
- All fines and penalties relating to take, harvest, or possession of certain marine life; use of illegal nets; violations involving certain finfish; and violations involving saltwater products; and
- Other revenues as provided by law.²⁸

Vessel Titling and Registrations

All motorized vessels operating on Florida's public waterways must be titled and registered pursuant to ch. 328, F.S.²⁹ The Department of Highway Safety and Motor Vehicles (DHSMV) is responsible for issuing vessel registrations and titles.³⁰ Registration and title applications must be filed at a county tax collector or license plate agent office,³¹ but DHSMV is responsible for issuing vessel registrations.³²

²⁶ Section 379.208(1), F.S.

²⁷ *Id.*

²⁸ Section 379.208(2), F.S.

²⁹ See s. 328.03, F.S. Certain vessels are not required to have a certificate of title, including, but not limited to, vessels used only on private lakes or ponds and vessels owned by the U.S. Government or a state or political subdivision thereof.

³⁰ Section 328.40, F.S.

³¹ Section 328.48(1)(a), F.S.

³² Section 328.48(3), F.S.

A purchaser of a new or used vessel has 30 days to title and register the vessel.³³ The required information for a vessel registration application includes: the owner's name and address; residency status; personal identification (a driver license or identification card) or business identification (a federal employer identification number or Florida state, city, or county business license or number); a complete description of the vessel; payment of the applicable fee; and proof of ownership of the vessel.³⁴ During the 30-day period before registration, the owner must carry proof of the date of purchase aboard the vessel.³⁵

Every vessel operated, used, or stored on the waters of Florida must be registered unless it is:

- A vessel operated, used, and stored exclusively on private lakes and ponds;
- A vessel owned by the United States Government;
- A non-motor-powered vessel less than 16 feet in length;
- A federally documented vessel;
- A vessel already covered by a registration number awarded to it by another state or the U.S. Coast Guard, if the vessel is not located in this state for more than 90 consecutive days;
- A vessel from a country other than the United States, if the vessel is not located in this state for more than 90 days;
- An amphibious vessel for which a vehicle title is issued by DHSMV;
- A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer; or
- A vessel owned and operated by the state or a political subdivision thereof.³⁶

No person may sell, assign, or transfer a vessel titled in the state without providing the purchaser or transferee a valid certificate of title with an assignment on it showing transfer of title to the purchaser or transferee.³⁷ The purchaser or transferee is required to file an application for a title transfer with the county tax collector within 30 days after a change in vessel ownership.³⁸ Unless specified otherwise, a person who fails to meet titling and registration requirements is guilty of a second degree misdemeanor.³⁹

Wildlife Alert

The Wildlife Alert Reward Association, Inc. (Wildlife Alert) is a 501(c)(3) non-profit organization created in 1979 that allows citizens to report known or suspected violations of Florida's fish, wildlife, environmental, and boating laws, and encourages citizen involvement in conservation and protection.⁴⁰ In 2014, Wildlife Alert and FWC signed a letter of agreement recognizing Wildlife Alert as an FWC Citizen Support Organization.⁴¹ Reporters who know or suspect a violation of Florida's fish, wildlife, environmental, or boating laws may call, text, or

³³ Section 328.46(1), F.S.

³⁴ Section 328.48(1), F.S.

³⁵ Section 328.46(1), F.S.

³⁶ Section 328.48(2), F.S.

³⁷ Section 328.03(3), F.S.

³⁸ *Id.*

³⁹ Section 328.21, F.S.

⁴⁰ FWC, *Wildlife Alert* (2014) available at <https://myfwc.com/media/4539/wildlife-alert.pdf> (last visited Nov. 22, 2021).

⁴¹ FWC, *Wildlife Alert Reward Program* (2020) available at https://flmtph.myfwc.com/media/19135/10_travis_wildlife-alert-pp-2020-mstm.pdf (last visited Nov. 22, 2021).

file an online report. They may be asked to provide information about the physical descriptions of violators and vehicles, license tag numbers, locations, and other pertinent information. Reporters may remain anonymous. The Wildlife Alert program offers rewards in exchange for information that leads to the arrest of poachers or other violators.⁴²

III. Effect of Proposed Changes:

Section 1 names this act the “Boating Safety Act of 2022.”

Section 2 amends s. 327.30, F.S., to create an additional fine of up to \$1,000 for a violation of the vessel collision and accident laws, or any associated rule or order of the Fish and Wildlife Commission (FWC). A conviction is any judicial disposition other than acquittal or dismissal. Money from the additional fine is to be deposited into the Marine Resources Conservation Trust Fund (MRCTF) to enhance law enforcement activities relating to boating infractions.

Section 3 amends s. 327.54, F.S., to revise existing requirements for liveries. The bill defines the term “conviction” as any judicial disposition other than acquittal or dismissal. It defines “livery” as a person who offers a 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. A vessel rented or leased by a livery is a livery vessel. The bill defines “seaworthy” to mean a vessel whose parts and equipment, including, but not limited to, engines, bilge pumps, and kill switches, are functional and reasonably fit for their intended purpose.

The bill provides that, effective January 1, 2023, a livery must obtain a no-cost, annual livery permit from FWC. To qualify for the permit, an applicant must:

- Provide FWC with a list of vessels offered by the livery for lease or rent by another;
- Have a sufficient amount of U.S. Coast Guard-approved lawful personal flotation devices on site to accommodate the capacity of all vessels offered by the livery for lease or rent by another;
- Have on site all safety equipment required by the U.S. Coast Guard to equip all vessels offered by the livery for rent or lease by another; and
- Display boating safety information in a place visible to the renting public.

If the information required to qualify for a permit changes before the annual renewal of the permit, the livery must provide FWC with the updated information within 10 days after the change. The bill authorizes FWC to adopt rules to implement the no-cost livery permit program. A violation of the permit requirement is a misdemeanor of the first degree.

The bill prevents a livery from knowingly leasing or renting a derelict vessel or a vessel at risk of becoming derelict.

The bill removes the prohibition that a livery cannot knowingly lease or rent a vessel to any person if it is equipped with a motor of 10 horsepower or greater unless the livery provides pre-rental or pre-ride instruction. Instead, pre-rental or pre-ride instruction must be in compliance

⁴² *Id.*

with rules established by FWC. The bill provides that instruction on local characteristics of the waterway where the vessel will be operated includes navigational hazards, boating-restricted areas, and water depths, as well as emergency procedures such as appropriate responses to capsizing, falls overboard, taking on water, and vessel accidents. The bill reorganizes language requiring the person delivering this information to have successfully completed a boater safety course.

The bill adds that a livery may not knowingly lease or rent a vessel to any person unless the livery has a written agreement with the renter or lessee. The livery must maintain each agreement for no less than 1 year and must make it available for inspection by law enforcement upon request. The written agreement must include:

- The names, addresses, and dates of birth of all persons who will be aboard the vessel;
- The time the vessel must be returned to the livery or other specified location; and
- An emergency contact name, address, and telephone number.

A livery may not knowingly lease or rent a vessel to any person who is required to have photographic identification and a boating safety card or certificate, unless the person presents the required documentation for the operation of a vessel or is exempt from the requirement.

The following requirements, which currently apply to “personal watercraft,” are broadened to apply to “vessels.”⁴³

- A livery may not knowingly lease or rent a vessel to any person under 18 years of age.
- A livery may not knowingly lease or rent a vessel to any person unless the livery first obtains a policy from a licensed insurance carrier in Florida, which insures the livery against any accident, loss, injury, property damage, or other casualty caused by or resulting from the operation of the vessel. The policy must provide coverage of at least \$500,000 per person and \$1 million per event. The livery must have proof of insurance available for inspection at the location where the vessels are being leased or rented or offered for lease or rent. The livery shall provide the insurance carrier’s name and address and the insurance policy number to each renter.
- The bill requires a person who receives instruction regarding the safe operation of vessels or pre-rental or pre-ride instruction to provide the livery with a signed form attesting to each component of the instruction. FWC shall establish the form’s content by rule. The bill also requires that the form be signed by the individual providing instruction, and the livery shall maintain the form for no less than 90 days and make the form available for inspection by law enforcement upon request.

The bill clarifies that if a vessel rented or leased by a livery is unnecessarily overdue more than 1 hour after the contracted rental time has expired, then the livery must notify law enforcement and the U.S. Coast Guard.

⁴³ A ‘personal watercraft’ is a vessel 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel. S. 327.02(36), F.S. A ‘vessel’ includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water. S. 327.02(47), F.S.

The bill requires that a livery must report an accident resulting in bodily injury, death, or disappearance of any person, or damage to any vessel or other property in an apparent aggregate amount of at least \$2,000 when the operator is incapable of making a report.

The bill provides that a livery shall make its facilities and records available for inspection within 24 hours of notice by law enforcement.

The bill provides penalties for violations of the livery requirements:

- A person who violates one or more statutory requirements for liveries, but not the no-cost livery permit requirement, and who has not been convicted of a violation of the livery requirements in the past 3 years, commits a misdemeanor of the second degree and may face imprisonment of no more than 60 days and/or a fine of no more than \$500.
- If the violation has occurred within 3 years after a previous conviction, the person commits a misdemeanor of the first degree and may face imprisonment of no more than 1 year and/or a fine of no more than \$1,000. There is an additional minimum mandatory fine of \$500.
- If the person commits another violation within 5 years after two previous convictions for violations of the livery requirements, the person commits a misdemeanor of the first degree and may face imprisonment of no more than 1 year and/or a fine of no more than \$1,000. There is an additional minimum mandatory fine of \$1,000.
- A person who commits more than one violation of the livery requirements, but not the no-cost livery permit requirement, within a 3-year period may not act as a livery during a 90-day period immediately after being charged. Effective January 1, 2023, FWC may revoke or refuse to issue a no-cost livery permit based on repeated violations of the livery requirements.

Section 4 amends s. 327.73, F.S., to increase the following penalties for noncriminal infractions:

- The maximum fine for an owner or operator of a vessel with an expired registration of 6 months or less is increased from \$50 to \$100 for a first and subsequent offense.
- The maximum fine for violating the navigation rules in a way that is not reckless and does not result in an accident, or results in an accident that does not cause serious bodily injury or death:
 - Is increased from \$250 to \$500 for a first offense.
 - Is increased from \$750 to \$1,000 for a second offense.
 - Is increased from \$1,000 to \$1,500 for a third or subsequent offense.
- The fine for operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve, except the Lake Jackson, Ocklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, is increased from \$50 to \$100 for a first offense.
- The fine for operating a vessel in violation of a springs protection zone is increased from \$50 to \$100 for a first offense.
- The maximum fine for anchoring a vessel in an anchoring limitation area:
 - Is increased from \$50 to \$100 for a first offense.
 - Is increased from \$100 to \$250 for a second offense.
 - Is increased from \$250 to \$500 for a third or subsequent offense.
- The fine for violating an area where vessels creating a special hazard are operating:
 - Is increased from \$50 to \$100 for a first offense.

- Is increased from \$100 to \$250 for a second offense occurring within 12 months after a prior offense.
 - Is increased from \$250 to \$500 for a third offense occurring within 36 months after a prior offense.
- The maximum civil penalty for noncriminal violations of vessel laws is increased from \$50 to \$100, except as otherwise provided.

The bill adds the following penalties for noncriminal infractions:

- The maximum fine for improper transfer of vessel title is \$500.
- The maximum fine for failure to update vessel registration information is \$500.

The bill adds law enforcement purposes to the uses of fees and civil penalties collected pursuant to this section.

Section 5 amends s. 327.731, F.S., relating to mandatory education for violators. The bill adds a fine of \$500 to the list of requirements that are triggered if a person is:

- Convicted of a criminal violation under chapter 327, F.S. (relating to vessel safety);
- Convicted of a noncriminal infraction under chapter 327, F.S., if it resulted in a reportable boating accident; or
- Convicted of two noncriminal infractions of vessel laws, if the infractions occurred within a 12-month period. These infractions relate to:
 - Careless operation;
 - Waterskiing, aquaplaning, parasailing, and similar activities;
 - Interfering with navigation;
 - Violating boating-restricted areas and speed limits;
 - Required safety equipment, lights, and shapes;
 - Violating navigation rules in a way that does not result in an accident, or that results in an accident not causing serious bodily injury or death;
 - Personal watercraft;
 - Boater safety education;
 - Operating overloaded or overpowered vessels;
 - Divers-down warning devices;
 - Adequate mufflers on airboats;
 - Displaying a flag on an airboat;
 - Carelessly causing seagrass scarring; and
 - Violating springs protection zones.

The clerk of the court shall remit the fines to be deposited into the MRCTF to support law enforcement activities.

The bill requires FWC to maintain a program to ensure compliance with mandatory boating safety education requirements. The program must track any citation resulting in a conviction under this section and send notices to each person subject to the requirement for mandatory boating safety education.

Section 6 amends s. 328.03, F.S., to provide that any person who does not properly transfer title of a vessel is subject to a maximum penalty of \$500.

Section 7 amends s. 328.03, F.S., as amended by chapter 2019-76, Laws of Florida, to provide that any person who does not properly transfer title of a vessel is subject to a maximum penalty of \$500. This amendment will be effective July 1, 2023.

Section 8 amends s. 328.48, F.S., to add language requiring a vessel owner to provide a physical residential or business address when filing an application for vessel registration. The bill allows FWC to authorize a live-aboard vessel owner to provide a post office box address in lieu of a physical residential or business address so long as he or she has not been convicted of a criminal offense under ch. 327 or 328, F.S. (relating to vessel safety and vessel title certificates, liens, and registration).

The bill adds language requiring a vessel owner's physical residential or business address on each certificate of registration issued.

The bill provides that 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 will be subject to a maximum penalty of \$500.

Section 9 creates the Illegal Boating Strike Team. To this end, the bill appropriates \$2 million in recurring funds for the 2022-2023 fiscal year from the General Revenue Fund to FWC and authorizes seven full-time equivalent positions with associated salary rate of \$322,763. The Illegal Boating Strike Team will coordinate law enforcement at the federal, state, and local levels to increase public safety and decrease boating accidents, injuries, fatalities, and criminal activity. In areas where illegal charters and illegal liveries are found to be operating, the strike team shall do all of the following:

- Enhance law enforcement activities by increasing intergovernmental coordination to address any criminal conduct or safety violation, taxes and fees, and licensure regulations by such charter and livery operations.
- Address unsafe customer pick-ups and drop-offs.
- Improve signage and set appropriate speed limits in waterways.
- Ensure correct and current information is used for vessel registration.
- Publicize existing reporting systems and use social media to encourage citizens to report illegal activities.
- Develop educational campaigns to address and deter illegal charter operations, illegal livery operations, boating under the influence, and related public safety issues, and to encourage the reporting of boating violations.

Section 10 appropriates \$100,000 in recurring funds for the 2022-2023 fiscal year from the General Revenue Fund to FWC and authorizes one full-time equivalent position with associated salary rate of \$60,000 to implement the amendment made to s. 327.731, F.S. by this act, relating to ensuring compliance with mandatory boating safety education requirements.

Section 11 appropriates \$125,000 in nonrecurring funds for the 2022-2023 fiscal year from the General Revenue Fund to FWC for the purpose of implementing the no-cost livery permitting requirement in s. 327.54(2), F.S.

Section 12 provides that except as otherwise expressly provided, the effective date is July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Increased boating penalties are expected to have a positive fiscal impact to the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides that violators of s. 327.30, F.S. (relating to vessel collisions, accidents, and casualties) may be ordered to pay an additional fine of up to \$1,000, which must be deposited

into the Marine Resources Conservation Trust Fund (MRCTF).⁴⁴ However, the bill does not state who is responsible for ensuring the additional fine is deposited in the MRCTF.⁴⁵

The Department of Revenue recommends replacement language for Line 73 of the bill:

\$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 Marine⁴⁶

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.30, 327.54, 327.73, 327.731, 328.03, and 328.48.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁴⁴ Department of Revenue, *2022 Agency Legislative Bill Analysis* (Nov. 4, 2021) (on file with the Senate Committee on Environment and Natural Resources).

⁴⁵ *Id.*

⁴⁶ *Id.*

1 A bill to be entitled
2 An act relating to boating safety; providing a short
3 title; amending s. 327.30, F.S.; authorizing a court
4 to impose a specified fine for certain boating
5 collisions and accidents; requiring such fines to be
6 deposited into the Marine Resources Conservation Trust
7 Fund for specified purposes; defining the terms
8 "convicted" and "conviction"; amending s. 327.54,
9 F.S.; defining terms; prohibiting liveries, beginning
10 on a specified date, from offering a vessel for lease
11 or rent without a livery permit; specifying
12 requirements and qualifications for the permit;
13 authorizing the Fish and Wildlife Conservation
14 Commission to adopt rules; providing penalties for
15 permit violations; revising the conditions under which
16 a livery may not knowingly lease or rent a vessel;
17 requiring specified boating safety education courses
18 for certain instructors; requiring a person receiving
19 safety instruction to provide the livery with a
20 specified signed attestation; requiring liveries to
21 report certain issues and accidents; requiring
22 liveries to make facilities and records available to
23 law enforcement upon notice; providing penalties for
24 violations and additional penalties for subsequent
25 violations; prohibiting violators from operating a

26 vessel or acting as a livery for a specified timeframe
27 after such a violation; authorizing the commission,
28 beginning on a specified date, to revoke or refuse to
29 issue permits for repeated violations; amending s.
30 327.73, F.S.; increasing fines for violations of
31 certain boating regulations; providing fines for
32 improper transfers of title and failures to update
33 vessel registration information; authorizing certain
34 fees and penalties deposited into the Marine Resources
35 Conservation Trust Fund to be used for law enforcement
36 purposes; amending s. 327.731, F.S.; imposing a fine
37 for persons convicted of certain criminal or
38 noncriminal infractions; providing for the deposit of
39 such fines into the Marine Resources Conservation
40 Trust Fund; requiring the commission to maintain a
41 program to ensure compliance with certain boating
42 safety education requirements; specifying requirements
43 for the program; amending s. 328.03, F.S.; providing
44 that an improper transfer of vessel title is subject
45 to a civil penalty; amending s. 328.48, F.S.;
46 requiring that the address provided in a vessel
47 registration application and a certificate of
48 registration be a physical residential or business
49 address; authorizing the commission to accept post
50 office box addresses in lieu of the physical

51 residential or business address under certain
52 circumstances; providing that a person who fails to
53 update his or her vessel registration information
54 within a specified timeframe is subject to a civil
55 penalty; providing an appropriation to, and
56 authorizing positions for, the commission to create an
57 Illegal Boating Strike Team; providing the duties of
58 the strike team; providing additional appropriations
59 to the commission and authorizing a position for a
60 specified purpose; providing effective dates.

61
62 Be It Enacted by the Legislature of the State of Florida:

63
64 Section 1. This act may be cited as the "Boating Safety
65 Act of 2022."

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

68 327.30 Collisions, accidents, and casualties.—

69 (7) In addition to any other penalty provided by law, a
70 court may order a person convicted of a violation of this
71 section or of any rule adopted or order issued by the commission
72 pursuant to this section to pay an additional fine of up to
73 \$1,000 per violation, which must be deposited into the Marine
74 Resources Conservation Trust Fund to be used to enhance state
75 and local law enforcement activities related to boating

76 infractions. As used in this subsection, the terms "convicted"
77 and "conviction" mean any judicial disposition other than
78 acquittal or dismissal.

79 Section 3. Section 327.54, Florida Statutes, is amended to
80 read:

81 327.54 Liveries; safety regulations; penalty.—

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

83 (a) "Conviction" means any judicial disposition other than
84 acquittal or dismissal.

85 (b) "Livery" means a person who offers a vessel for use by
86 another in exchange for any type of consideration when such
87 person does not also provide the lessee or renter with a
88 captain, a crew, or any type of staff or personnel to operate,
89 oversee, maintain, or manage the vessel. A vessel rented or
90 leased by a livery is a livery vessel as defined in s. 327.02.

91 (c) "Seaworthy" means the vessel and all of its parts and
92 equipment, including, but not limited to, engines, bilge pumps,
93 and kill switches, are functional and reasonably fit for their
94 intended purpose.

95 (2) Beginning on January 1, 2023, a livery may not offer a
96 vessel for lease or rent without first being issued a no-cost
97 livery permit by the commission. The permit must be renewed
98 annually. To qualify for issuance or renewal of a livery permit,
99 an applicant must provide the commission with a list of all
100 vessels offered by the livery for lease or rent by another, have

101 valid insurance pursuant to paragraph (3)(j), have an amount of
102 United States Coast Guard-approved lawful personal floatation
103 devices on site sufficient to accommodate the capacity of all
104 vessels offered by the livery for rent or lease by another, have
105 on site all safety equipment required by s. 327.50 and the Code
106 of Federal Regulations sufficient to equip all vessels offered
107 by the livery for rent or lease by another, and display the
108 information required by paragraph (3)(f). If, before the annual
109 renewal of the permit, the information required by this
110 subsection changes, the livery must provide the commission with
111 the updated information within 10 days after the change.

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

114 (b) A person who violates this subsection commits a
115 misdemeanor of the first degree, punishable as provided in s.
116 775.082 or s. 775.083.

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

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

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

125 (c) When the vessel does not contain the ~~required~~ safety

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

1. Operational characteristics of the vessel to be rented.
2. Safe vessel operation and vessel right-of-way.
3. The responsibility of the vessel operator for the safe and proper operation of the vessel.
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.

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

~~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

151 in a place visible to the renting public. The commission shall
152 prescribe by rule, pursuant to chapter 120, the contents and
153 size of the boating safety information to be displayed.

154 (g) Unless the livery has a written agreement with the
155 renter or lessee. The written agreement must include a list of
156 the names, addresses, and dates of birth for all persons who
157 will be aboard the vessel, as well as the time the vessel is
158 required to be returned to the livery or another specified
159 location and an emergency contact name, address, and telephone
160 number. The livery shall maintain each agreement for no less
161 than 1 year and, upon request, make each agreement available for
162 inspection by law enforcement.

163 (h) Who is required to comply with s. 327.395, unless such
164 person presents to the livery the documentation required by s.
165 327.395(2) for the operation of a vessel or meets the exemption
166 provided under s. 327.395(6)(f).

167 (i) Who is under 18 years of age.

168 (j) Unless the livery first obtains and carries in full
169 force and effect a policy from a licensed insurance carrier in
170 this state which insures the livery against any accident, loss,
171 injury, property damage, or other casualty caused by or
172 resulting from the operation of the vessel. The insurance policy
173 must provide coverage of at least \$500,000 per person and \$1
174 million per event. The livery shall have proof of such insurance
175 available for inspection at the location where the livery's

176 vessels are being leased or rented, or offered for lease or
177 rent, and shall provide to each renter the insurance carrier's
178 name and address and the insurance policy number.

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

186 (5) A person who receives instruction regarding the safe
187 operation of vessels or pre-rental or pre-ride instruction in
188 accordance with subsection (3) must provide the livery with a
189 signed form attesting to each component of the instruction.

190 (a) The commission shall establish by rule the content of
191 the form.

192 (b) The form must be signed by the individual providing
193 the instruction.

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

197 ~~(2) A livery may not knowingly lease, hire, or rent a~~
198 ~~vessel to a person who is required to comply with s. 327.395~~
199 ~~unless such person presents to the livery the documentation~~
200 ~~required by s. 327.395(2) for the operation of a vessel or meets~~

201 ~~the exemption provided under s. 327.395(6)(f).~~

202 (6)(3) If a vessel rented or leased by a livery is
203 unnecessarily overdue more than 1 hour after the contracted
204 vessel rental time has expired, the livery must ~~shall~~ notify law
205 enforcement and the United States Coast Guard ~~the proper~~
206 authorities.

207 (7) If a vessel rented or leased by a livery is involved
208 in an accident, the livery must, as applicable under s. 327.301,
209 report the accident.

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

213 (9)(a) A person who violates this section other than
214 subsection (2), but who has not been convicted of a violation of
215 this section within the past 3 years, commits a misdemeanor of
216 the second degree, punishable as provided in s. 775.082 or s.
217 775.083.

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

224 (c) A person who violates this section other than
225 subsection (2) within 5 years after two previous convictions for

226 a violation of this section commits a misdemeanor of the first
227 degree, punishable as provided in s. 775.082 or s. 775.083, with
228 a minimum mandatory fine of \$1,000.

229 (10) A person who commits more than one violation of this
230 section, other than subsection (2), within a 3-year period may
231 not act as a livery during a 90-day period immediately after
232 being charged with that violation. Beginning January 1, 2023,
233 the commission may revoke or refuse to issue a permit under
234 subsection (2) based on repeated violations of this section.

235 ~~(4)(a) A livery may not knowingly lease, hire, or rent a~~
236 ~~personal watercraft to any person who is under 18 years of age.~~

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

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

246 ~~(5) A livery may not lease, hire, or rent any personal~~
247 ~~watercraft or offer to lease, hire, or rent any personal~~
248 ~~watercraft unless the livery first obtains and carries in full~~
249 ~~force and effect a policy from a licensed insurance carrier in~~
250 ~~this state, insuring against any accident, loss, injury,~~

~~property damage, or other casualty caused by or resulting from the operation of the personal watercraft. The insurance policy shall provide coverage of at least \$500,000 per person and \$1 million per event. The livery must have proof of such insurance available for inspection at the location where 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.~~

~~(6) Any person convicted of violating this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 4. 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.

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(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.

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(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

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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-

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401 powered vessels.

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

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

407
408 Any person cited for a violation of ~~any provision of~~ this
409 subsection shall be deemed to be charged with a noncriminal
410 infraction, shall be cited for such an infraction, and shall be
411 cited to appear before the county court. The civil penalty for
412 any such infraction is \$100 ~~\$50~~, except as otherwise provided in
413 this section. Any person who fails to appear or otherwise
414 properly respond to a uniform boating citation ~~shall~~, in
415 addition to the charge relating to the violation of the boating
416 laws of this state, must be charged with the offense of failing
417 to respond to such citation and, upon conviction, be guilty of a
418 misdemeanor of the second degree, punishable as provided in s.
419 775.082 or s. 775.083. A written warning to this effect shall be
420 provided at the time such uniform boating citation is issued.

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

426 Section 5. Subsection (1) of section 327.731, Florida
427 Statutes, is amended, and subsection (4) is added to that
428 section, to read:

429 327.731 Mandatory education for violators.—

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

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

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

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

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

449 (4) The commission shall maintain a program to ensure
450 compliance with the mandatory boating safety education

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451 requirements under this section. This program must:

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

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

456 Section 6. Subsection (3) of section 328.03, Florida
457 Statutes, is amended to read:

458 328.03 Certificate of title required.—

459 (3) A person may ~~shall~~ not sell, assign, or transfer a
460 vessel titled by the state without delivering to the purchaser
461 or transferee a valid certificate of title with an assignment on
462 it showing the transfer of title to the purchaser or transferee.
463 A person may ~~shall~~ not purchase or otherwise acquire a vessel
464 required to be titled by the state without obtaining a
465 certificate of title for the vessel in his or her name. The
466 purchaser or transferee shall, within 30 days after a change in
467 vessel ownership, file an application for a title transfer with
468 the county tax collector. An additional \$10 fee must ~~shall~~ be
469 charged against the purchaser or transferee if he or she files a
470 title transfer application after the 30-day period. The county
471 tax collector may ~~shall be entitled to~~ retain \$5 of the
472 additional amount. Any person who does not properly transfer
473 title of a vessel pursuant to this chapter is subject to the
474 penalties provided in s. 327.73(1)(ee).

475 Section 7. Effective July 1, 2023, subsection (4) of

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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 8. 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, the commission may authorize such owner to provide a post office box address in lieu of a physical residential or business address so long as he or she has not been convicted of a criminal offense under this chapter or chapter 327.

(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

526 ~~shall~~ be of a solid color that ~~which~~ will contrast with the
527 color of the background and must ~~shall~~ be so maintained as to be
528 clearly visible and legible; i.e., dark numbers on a light
529 background or light numbers on a dark background. The
530 certificate of registration must ~~shall~~ be pocket-sized and must
531 ~~shall~~ be available for inspection on the vessel for which issued
532 whenever such vessel is in operation. Upon receipt of an
533 application from a live-aboard vessel owner, the commission may
534 authorize such owner to provide a post office box address in
535 lieu of a physical residential address so long as he or she has
536 not been convicted of a criminal offense under this chapter or
537 chapter 327.

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

542 Section 9. For the 2022-2023 fiscal year, the sum of \$2
543 million in recurring funds is appropriated from the General
544 Revenue Fund to the Fish and Wildlife Conservation Commission
545 and 7 full-time equivalent positions with associated salary rate
546 of 322,763 are authorized to create an Illegal Boating Strike
547 Team for the purpose of coordinating law enforcement at the
548 federal, state, and local levels to increase public safety and
549 decrease boating accidents, injuries, fatalities, and criminal
550 activity. In areas where illegal charters and illegal liveries

are found to be operating, the strike team shall do all of the following:

(1) Enhance law enforcement activities by increasing intergovernmental coordination to address any criminal conduct or safety violations, taxes and fees, and licensure regulations by such charter and livery operations.

(2) Address unsafe customer pick-ups and drop-offs.

(3) Improve signage and set appropriate speed limits in waterways.

(4) Ensure that correct and current information is used for vessel registration.

(5) Publicize existing reporting systems and use social media to encourage citizens to report illegal activities.

(6) Develop educational campaigns to address and deter illegal charter operations, illegal livery operations, boating under the influence, and related public safety issues and to encourage the reporting of boating violations.

Section 10. For the 2022-2023 fiscal year, the sum of \$100,000 in recurring funds from the General Revenue Fund is appropriated to the Fish and Wildlife Conservation Commission and one full-time equivalent position with associated salary rate of 60,000 is authorized to implement the amendment made to s. 327.731, Florida Statutes, by this act relating to ensuring compliance with mandatory boating safety education requirements.

Section 11. For the 2022-2023 fiscal year, the sum of

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576 \$125,000 in nonrecurring funds from the General Revenue Fund is
577 appropriated to the Fish and Wildlife Conservation Commission
578 for the purpose of implementing the livery permitting
579 requirement in s. 327.54(2), Florida Statutes.

580 Section 12. Except as otherwise expressly provided in this
581 act, this act shall take effect July 1, 2022.

By Senator Hooper

16-00325-22

2022820__

A bill to be entitled

An act relating to the Yacht and Ship Brokers' Act; amending s. 326.002, F.S.; redefining the term "yacht" to include vessels longer than a specified length which are manufactured or operated primarily for pleasure or are leased, rented, or chartered for pleasure; amending s. 326.004, F.S.; exempting a person who conducts business as a broker or salesperson in another state from licensure for specified transactions; requiring, rather than authorizing, the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation to deny licenses for applicants who fail to meet certain requirements; revising requirements for licensure as a broker; requiring the division to adopt a complaint form for alleged violations of the act; providing requirements for the form; requiring the division to commence an investigation within a specified timeframe after receiving a complaint form; requiring the division to take certain actions if the division determines that a broker or salesperson violated the act; deleting a provision requiring the division to adopt rules relating to temporary licenses; providing an effective date.

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

Section 1. Subsection (4) of section 326.002, Florida

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Statutes, is amended to read:

326.002 Definitions.—As used in ss. 326.001-326.006, the term:

(4) "Yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and is:

(a) Manufactured or operated primarily for pleasure; or

(b) Leased, rented, or chartered to someone other than the owner for the other person's pleasure ~~which weighs less than 300 gross tons.~~

Section 2. Subsections (6), (8), and (15) of section 326.004, Florida Statutes, are amended, and paragraph (f) is added to subsection (3) of that section, to read:

326.004 Licensing.—

(3) A license is not required for:

(f) A person who conducts business as a broker or salesperson in another state as his or her primary profession and engages in the purchase or sale of a yacht under this act if the transaction is executed in its entirety with a broker or salesperson licensed in this state.

(6) The division shall ~~may~~ deny a license to any applicant who does not:

(a) Furnish proof satisfactory to the division that he or she is of good moral character.

(b) Certify that he or she has never been convicted of a felony.

(c) Post the bond required by the Yacht and Ship Brokers' Act.

(d) Demonstrate that he or she is a resident of this state or that he or she conducts business in this state.

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59 (e) Furnish a full set of fingerprints taken within the 6
60 months immediately preceding the submission of the application.

61 (f) Have a current license and has operated as a broker or
62 salesperson without a license.

63 (8) A person may not be licensed as a broker unless he or
64 she has been licensed as a salesperson for at least 2
65 consecutive years and can demonstrate that he or she has been
66 directly involved in at least four transactions that resulted in
67 the sale of a yacht or can certify that he or she has obtained
68 20 continuing education credits approved by the division,~~and~~
69 ~~may not be licensed as a broker unless he or she has been~~
70 ~~licensed as a salesperson for at least 2 consecutive years.~~

71 (15) The division shall adopt ~~provide~~ by rule a complaint
72 form for alleged violations of this chapter by a licensed broker
73 or salesperson. Any person may submit a complaint form, which
74 must require the person to provide detailed facts of the alleged
75 violation. The division shall commence an investigation within
76 15 days after receiving a complaint form and must suspend or
77 revoke a broker's or salesperson's license, or otherwise
78 discipline the licensee, if the division determines that the
79 broker or salesperson violated this chapter ~~for the issuance of~~
80 ~~a temporary 90-day license to an applicant while the Florida~~
81 ~~Department of Law Enforcement conducts a national criminal~~
82 ~~history analysis of the applicant by means of fingerprint~~
83 ~~identification.~~

84 Section 3. This act shall take effect October 1, 2022.

1 A bill to be entitled
2 An act relating to the Yacht and Ship Brokers' Act;
3 amending s. 326.002, F.S.; redefining the term "yacht"
4 to include vessels longer than a specified length
5 which are manufactured or operated primarily for
6 pleasure or are leased, rented, or chartered for
7 pleasure; amending s. 326.004, F.S.; exempting a
8 person who conducts business as a broker or
9 salesperson in another state from licensure for
10 specified transactions; requiring, rather than
11 authorizing, the Division of Florida Condominiums,
12 Timeshares, and Mobile Homes of the Department of
13 Business and Professional Regulation to deny licenses
14 for applicants who fail to meet certain requirements;
15 revising requirements for licensure as a broker;
16 requiring the division to adopt a complaint form for
17 alleged violations of the act; providing requirements
18 for the form; requiring the division to commence an
19 investigation within a specified timeframe after
20 receiving a complaint form; requiring the division to
21 take certain actions if the division determines that a
22 broker or salesperson violated the act; deleting a
23 provision requiring the division to adopt rules
24 relating to temporary licenses; providing an effective
25 date.

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

Section 1. Subsection (4) of section 326.002, Florida Statutes, is amended to read:

326.002 Definitions.—As used in ss. 326.001-326.006, the term:

(4) "Yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and is:

(a) Manufactured or operated primarily for pleasure; or

(b) Leased, rented, or chartered to someone other than the owner for the other person's pleasure ~~which weighs less than 300 gross tons.~~

Section 2. Subsections (6), (8), and (15) of section 326.004, Florida Statutes, are amended, and paragraph (f) is added to subsection (3) of that section, to read:

326.004 Licensing.—

(3) A license is not required for:

(f) A person who conducts business as a broker or salesperson in another state as his or her primary profession and engages in the purchase or sale of a yacht under this act if the transaction is executed in its entirety with a broker or salesperson licensed in this state.

(6) The division shall ~~may~~ deny a license to any applicant who does not:

51 (a) Furnish proof satisfactory to the division that he or
52 she is of good moral character.

53 (b) Certify that he or she has never been convicted of a
54 felony.

55 (c) Post the bond required by the Yacht and Ship Brokers'
56 Act.

57 (d) Demonstrate that he or she is a resident of this state
58 or that he or she conducts business in this state.

59 (e) Furnish a full set of fingerprints taken within the 6
60 months immediately preceding the submission of the application.

61 (f) Have a current license and has operated as a broker or
62 salesperson without a license.

63 (8) A person may not be licensed as a broker unless he or
64 she has been licensed as a salesperson for at least 2
65 consecutive years and can demonstrate that he or she has been
66 directly involved in at least four transactions that resulted in
67 the sale of a yacht or can certify that he or she has obtained
68 20 continuing education credits approved by the division, ~~and~~
69 ~~may not be licensed as a broker unless he or she has been~~
70 ~~licensed as a salesperson for at least 2 consecutive years.~~

71 (15) The division shall adopt ~~provide~~ by rule a complaint
72 form for alleged violations of this chapter by a licensed broker
73 or salesperson. Any person may submit a complaint form, which
74 must require the person to provide detailed facts of the alleged
75 violation. The division shall commence an investigation within

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76 15 days after receiving a complaint form and must suspend or
77 revoke a broker's or salesperson's license, or otherwise
78 discipline the licensee, if the division determines that the
79 broker or salesperson violated this chapter ~~for the issuance of~~
80 ~~a temporary 90-day license to an applicant while the Florida~~
81 ~~Department of Law Enforcement conducts a national criminal~~
82 ~~history analysis of the applicant by means of fingerprint~~
83 ~~identification.~~

84 Section 3. This act shall take effect October 1, 2022.

By Senator Albritton

26-00971-22

2022840__

1 A bill to be entitled
2 An act relating to residential property riparian
3 rights; amending s. 253.141, F.S.; requiring land
4 surveyors to give preference to using the
5 prolongation-of-property-line method to establish a
6 property owner's riparian rights along a channel under
7 certain circumstances; defining terms; providing
8 applicability; requiring courts to award reasonable
9 attorney fees and costs to a prevailing party in a
10 civil action under certain circumstances; reenacting
11 ss. 403.813(1)(s) and 403.9323(3), F.S., relating to
12 permits issued at district centers and legislative
13 intent in recognizing rights of riparian property
14 ownership, respectively, to incorporate the amendment
15 made to s. 253.141, F.S., in references thereto;
16 providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsection (1) of section 253.141, Florida
21 Statutes, is amended to read:

22 253.141 Riparian rights defined; certain submerged bottoms
23 subject to private ownership.—

24 (1) (a) Riparian rights are those incident to land bordering
25 upon navigable waters. They are rights of ingress, egress,
26 boating, bathing, and fishing and such others as may be or have
27 been defined by law. Such rights are not of a proprietary
28 nature. They are rights inuring to the owner of the riparian
29 land but are not owned by him or her. They are appurtenant to

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and are inseparable from the riparian land. The land to which the owner holds title must extend to the ordinary high watermark of the navigable water in order that riparian rights may attach. Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running therewith whether or not mentioned in the deed or lease of the upland.

(b) When establishing the boundaries of a residential property owner's riparian rights along a channel, for purposes of the construction of docks, piers, marinas, moorings, pilings, and other private improvements, land surveyors must give preference to the prolongation-of-property-line method unless doing so would result in inequitable apportionment of riparian rights among property owners along the channel.

1. As used in this paragraph, the term:

a. "Channel" means the marked, buoyed, or artificially dredged channel, if any, or if none, means a space equal to 20 percent of the average width of the river or stream at the point concerned which furnishes uninterruptedly, through its course, the deepest water at ordinary low water.

b. "Prolongation-of-property-line method" means establishing the boundary of a property owner's riparian rights by extending the owner's property line out into the waterbody at the same angles at which they intersect the ordinary high watermark.

2. This paragraph does not apply to littoral waters, such as a lake, an ocean, or a gulf.

3. This paragraph applies only when establishing the boundaries of riparian rights after July 1, 2022.

(c) In a civil action relating to the riparian rights of a

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residential dock owner, when such rights are exercised with all appropriate environmental and regulatory approvals and permits, in which the defendant is the prevailing party, the court shall award reasonable attorney fees and costs to the prevailing party.

Section 2. For the purpose of incorporating the amendment made by this act to section 253.141, Florida Statutes, in a reference thereto, paragraph (s) of subsection (1) of section 403.813, Florida Statutes, is reenacted to read:

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, and a local government may not require a person claiming this exception to provide further department verification, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, this subsection does not relieve an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(s) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

1. Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when

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not in use;

2. Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;

3. Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in s. 253.141;

4. Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and

5. Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund

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and, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government. Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations. Local governments may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in this section or address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). The department shall adopt a general permit by rule for the construction, installation, operation, or maintenance of those floating vessel platforms or floating boat lifts that do not qualify for the exemption provided in this paragraph but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands

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owned by the Board of Trustees of the Internal Improvement Trust Fund. Local governments may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. Local governments may require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

Section 3. For the purpose of incorporating the amendment made by this act to section 253.141, Florida Statutes, in a reference thereto, subsection (3) of section 403.9323, Florida Statutes, is reenacted to read:

403.9323 Legislative intent.—

(3) It is the intent of the Legislature to provide waterfront property owners their riparian right of view, and other rights of riparian property ownership as recognized by s. 253.141 and any other provision of law, by allowing mangrove trimming in riparian mangrove fringes without prior government approval when the trimming activities will not result in the removal, defoliation, or destruction of the mangroves.

Section 4. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 840

INTRODUCER: Senator Albritton

SUBJECT: Residential Property Riparian Rights

DATE: January 7, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Collazo	Rogers	EN	Favorable
2. _____	_____	JU	_____
3. _____	_____	RC	_____

I. Summary:

SB 840 requires land surveyors to give a preference to the prolongation-of-property-line method of establishing the boundaries of a residential property owner's riparian rights along a channel, unless doing so would result in an inequitable apportionment of the riparian rights at issue. In connection with this preference, the bill defines the terms "channel" and "prolongation-of-property-line method"; limits the scope of the preference to riparian waters only (not littoral waters, such as a lake, an ocean, or a gulf); and provides that the preference only applies when establishing the boundaries of riparian rights after July 1, 2022.

The bill also provides that in a civil action relating to the riparian rights of a residential dock owner, when such rights are exercised with all appropriate environmental and regulatory approvals and permits, the court must award reasonable attorney fees and costs to the defendant if the defendant is the prevailing party.

II. Present Situation:

Riparian Rights Generally

Riparian rights¹ are rights incident to land bordering upon navigable waters. They are rights of ingress, egress, boating, bathing, and fishing and such others as may be or have been defined by

¹ Technically, the term "riparian" refers to land abutting nontidal or navigable river waters, and the term "littoral" refers to land abutting navigable ocean, sea, or lake waters. *5F, LLC v. Hawthorne*, 317 So. 3d 220, 222 n.1 (Fla. 2d DCA 2021) and *Walton County v. Stop Beach Renourishment, Inc.*, 998 So. 2d 1102, 1105 n.3 (Fla. 2008), *aff'd sub nom. Stop the Beach Renourishment, Inc. v. Fla. Dep't of Env't Prot.*, 560 U.S. 702 (2010). However, the term "riparian" is commonly used to refer to all waterfront owners, so "riparian rights" can be used to refer to rights associated with both riparian and littoral lands. *Id.*

law.² Riparian rights benefit the owner of the riparian land, but such rights are attached to the land and are not owned by the land owner. In order for the rights to attach, the land must extend to the ordinary high water mark³ of the navigable water. Whoever owns or leases the land enjoys the rights, regardless of whether they are mentioned in a deed or lease.⁴ Riparian rights may not be taken without just compensation and due process of law.⁵ Where a landowner's common-law riparian rights are violated by the acts of another individual, the landowner may bring an action on his or her own behalf.⁶

The state holds title to sovereign submerged lands in trust for public use.⁷ The public generally enjoys rights such as bathing, fishing, commerce, and navigation.⁸ Upland property owners enjoy these rights in common with the public.⁹ Riparian rights are additional, exclusive rights that are held by upland property owners but not the general public.¹⁰ Such rights generally include, but are not limited to, the following:

- Access to and from the water.
- An unobstructed view over the water.
- Reasonable use of the water.
- Accretions and relictions.¹¹
- Wharfing out, meaning building structures on the shoreline.¹²

The doctrines of erosion, accretion, and reliction are also riparian rights.¹³ When gradual and imperceptible losses or additions to the shoreline occur, the boundary between public and private land (i.e., the mean high-water line)¹⁴ is altered accordingly.¹⁵ Riparian property owners

² Section 253.141(1), F.S. (2021); *see also Odom v. Deltona Corp.*, 341 So. 2d 977, 981 (Fla. 1976) (providing that “whether or not a particular area is that of a navigable body of water and thus sovereignty property held in trust [under Article X, Section 11 of the Florida Constitution] is a question of fact and dependent upon whether or not the body of water is permanent in character and, in its ordinary and natural state, is navigable for useful purposes and is of sufficient size and so situated and conditioned that it may be used for purposes common to the public in the locality where it is located); *see also Brevard Cty. v. Blasky*, 875 So. 2d 6, 13-14 (Fla. 5th DCA 2004) (explaining that navigability is determined as of 1845, the date Florida became a state).

³ *Walton County*, 998 So. 2d at 1124 (noting that the “ordinary high water mark is well established as the dividing line between private riparian and sovereign or public ownership of the land beneath the water”); *see also s. 253.03(8)(b)*, F.S. (identifying “submerged lands,” for purposes of inventorying public lands, as “publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state”); *see also s. 177.28*, F.S. (same).

⁴ Section 253.141(1), F.S.

⁵ *Broward v. Mabry*, 58 Fla. 398, 410 (1909).

⁶ *Harrell v. Hess Oil & Chem. Corp.*, 287 So. 2d 291, 295 (Fla. 1973).

⁷ FLA. CONST. art. X, s. 11.

⁸ *Walton County*, 998 So. 2d at 1110-11.

⁹ *Id.* at 1110-11. These special littoral rights are such as are necessary for the use and enjoyment of the upland property, but these rights may not be so exercised as to injure others in their lawful rights. *Id.* at 1111.

¹⁰ *Id.*

¹¹ *Id.*

¹² *See* Brendan Mackesey, *An Overview of Riparian Rights in Florida*, The Reporter, The Environmental and Land Use Law Section, Vol. XLI, No. 1, 1, 13-16 (2020), available at <https://eluls.org/wp-content/uploads/2021/02/The-Environmental-and-Land-Use-Law-Section-Reporter-October-2020.pdf> (last visited Nov. 12, 2021).

¹³ *Walton County*, 998 So. 2d at 1112-15. “Accretion” is the gradual and imperceptible accumulation of land; “reliction” is an increase of the land by a gradual and imperceptible withdrawal of a waterbody. *Id.* at 1113.

¹⁴ *See s. 177.28(1)*, F.S.

¹⁵ *Bd. of Trustees of the Internal Imp. Tr. Fund v. Sand Key Assocs., Ltd.*, 512 So. 2d 934, 936 (Fla. 1987).

automatically take title to dry land added to their property by accretion or reliction.¹⁶ However, under the doctrine of avulsion, following sudden or perceptible loss or addition to the shoreline, the boundary between public and private land remains where it existed before the avulsive event occurred.¹⁷

Establishing Lines of Riparian Rights

In the 1954 Florida Supreme Court case *Hayes v. Bowman*, opposing parties proposed two different methods for allocating riparian rights: one party argued the lines should extend from the property lines directly into the channel (referred to herein as the “prolongation-of-property-line” method for allocating riparian rights), and the other argued the lines should be drawn at right angles from the thread of the channel to the corners of the property.¹⁸ The Court stated that, based on the nature of upland boundary lines, it is impossible to formulate a geometric rule to govern all cases.¹⁹ Thus, the Court prescribed a rule requiring that, based on the factual circumstances presented, the riparian rights of an upland owner must be preserved over an area as near as practicable in the direction of the channel so as to distribute equitably the submerged lands between the upland and the channel.²⁰ Such equitable distribution must give due consideration to the lay of the upland shore line, the direction of the channel, and the co-relative rights of adjoining upland owners.²¹

The principles established in *Hayes* still apply in Florida today.²² Courts recognize that land surveyors and other practitioners may use many methods to equitably apportion riparian rights, and no one method is proper or improper.²³ The reasoning for this includes inherent aspects of the uplands to which riparian rights are attached: upland property boundaries intersect the water at almost every different angle, and the thread of a channel is seldom, if ever, parallel to the shoreline of the uplands.²⁴ Rights are applied based on the shape of the uplands, the shape of the waterbody, and the parties’ relative position to each other.²⁵

The use of a particular delineation method may be struck down by a court if the method is found to unfairly impact a party’s riparian rights.²⁶ In one case, a Florida court reversed a decision of a

¹⁶ *Stop the Beach Renourishment, Inc. v. Fla. Dep’t of Env’t Prot.*, 560 U.S. 702, 709 (2010); *see also Bd. of Trustees of the Internal Imp. Tr. Fund v. Sand Key Assocs., Ltd.*, 512 So. 2d 934, 938-39 (holding that owners have a right to claim accreted land when the accretion was artificially-caused, as long as the owner did not cause the accretion); *see also New Jersey v. New York*, 523 U.S. 767, 783 (1998) (explaining that an owner may not extend their own property into the water by landfilling or purposefully causing accretion); *see also* s. 161.051, F.S. (providing that the state will retain title to additions or accretions to the permittee’s property caused by permitted coastal improvements).

¹⁷ *Walton County*, 998 So. 2d at 1114. “Avulsion” is the sudden or perceptible loss of or addition to land by the action of the water or a sudden change in the bed of a lake or the course of a stream. *Id.* at 1116.

¹⁸ *Hayes v. Bowman*, 91 So. 2d 795, 801 (Fla. 1957).

¹⁹ *Id.* at 801-802.

²⁰ *Id.* at 802. In the opinion, the Court expressly references the rights of an unobstructed view of the channel and unobstructed means of ingress and egress over the foreshore and tidal waters. *Id.* at 801. The Court states that if the exercise of these rights is prevented, the upland owner is entitled to relief. *Id.*

²¹ *Id.* at 802.

²² *Lee Cty. v. Kiesel*, 705 So. 2d 1013, 1015 (Fla. 2d DCA 1998); *Lake Conway Shores Homeowners Ass’n, Inc. v. Driscoll*, 476 So. 2d 1306, 1308 (Fla. 5th DCA 1985).

²³ *Nourachi v. United States*, 655 F. Supp. 2d 1215, 1227 (M.D. Fla. 2009).

²⁴ *Hayes*, 91 So. 2d at 801-802.

²⁵ *Johnson v. McCowen*, 348 So. 2d 357, 360 (Fla. 1st DCA 1977).

²⁶ *Lake Conway Shores Homeowners Ass’n, Inc. v. Driscoll*, 476 So. 2d 1306, 1309-10 (Fla. 5th DCA 1985).

trial judge who used a prolongation-of-property-line method, holding that extending the line of the property boundary in this particular case destroyed an adjacent parcel owner's littoral rights, and remanding for an equitable determination of the parties' respective rights.²⁷

The Florida Statutes do not address the methodology for establishing boundaries for riparian rights. The Florida Administrative Code's rules on sovereignty submerged lands generally require all structures and activities to be set back a minimum of 25 feet inside the applicant's riparian rights lines.²⁸ The rules also require applicants seeking standard leases of sovereignty submerged lands to show the applicant's upland parcel property lines and associated riparian rights lines.²⁹

In 2013, the Department of Environmental Protection (DEP) published general guidelines for the allocation of riparian rights, based on research analyzing existing methods for allocating riparian rights together with a study of different shoreline configurations.³⁰ Concentrating on the right of ingress and egress to and from the water (including dock construction) and the right to a view over the water – the two riparian rights “equities” of primary interest among owners – the document includes eight conclusions from the research, summarized as follows:

- When docking is the primary issue, the courts will usually apportion the space between the shore and the line of navigability (i.e., the line of deep water).
- For a straighter shore on a large waterbody, the division lines are perpendicular to the direction of the shore extended to the line of navigable water.
- Along a river without a marked channel, lines are usually perpendicular with the stream's thread (i.e., median).
- Along a river or other waterbody with a nearby marked channel and regular shore, the lines are usually perpendicular with the nearest channel edge and not the thread.
- The direction of upland boundaries is largely ignored when apportioning riparian rights (“[t]he public's mistaken belief that riparian lines are on the extension of their side upland lines is the most frequent cause of riparian disputes”).³¹ The water body must be equitably apportioned as if all waterfront owners were standing on the shore looking out over the waterbody.
- When the shore is irregular (e.g., coves, bays, lakes, rivers) most courts apportion the line of deep water to divide riparian rights as opposed to any perpendicular method.
- Some situations require apportionment of the entire water surface, and then certain methods are used such as the center point method for lakes.

²⁷ *Id.*; see also *Muraca v. Meyerowitz*, 818 N.Y.S.2d 450, 456-57 (Sup. Ct. 2006).

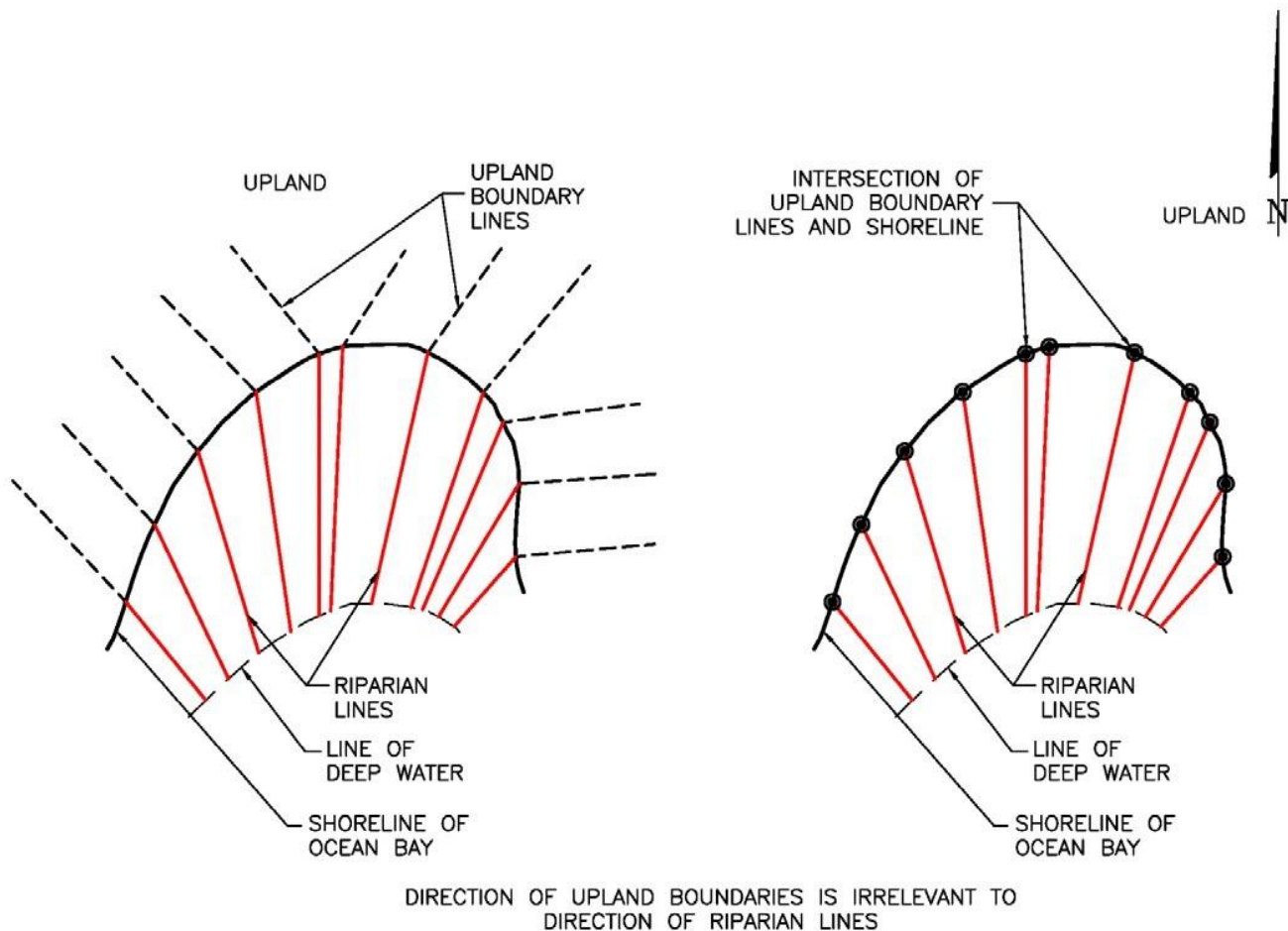
²⁸ Fla. Admin. Code R. 18-21.004(3)(d) (noting also that the minimum setback is 10 feet for marginal docks, and that other exceptions apply).

²⁹ Fla. Admin. Code R. 18-21.008(1)(a)4.f.

³⁰ Florida Dep't of Environmental Protection, SLER 0950, Survey Requirements, *Guidelines for Allocation of Riparian Rights*, 7-18 (2013), available at https://apps.sfwmd.gov/entsb/docdownload?object_id=0900eeea8a95bcd3 (last visited Nov. 12, 2021).

³¹ *Id.* at 8. The diagram shows how it is the locations where the upland boundary lines intersect the shoreline (not the direction of the boundary lines landward of the shoreline) that are relevant for apportionment.

- Apportioning the line of deep water is the most universal method, and it gives the same solution as more traditional techniques in many cases and follows dominant national case law where the shore is irregular.³²



III. Effect of Proposed Changes:

The bill amends s. 253.141(1), F.S., to require land surveyors to give preference to the prolongation-of-property-line method of establishing the boundaries of a residential property owner's riparian rights along a channel. The prolongation-of-property-line method would apply in connection with the construction of docks, piers, marinas, moorings, pilings, and other private improvements, unless doing so would result in an inequitable apportionment of the riparian rights among property owners along the channel.

The bill defines the term "channel" to mean the marked, buoyed, or artificially dredged channel, if any; or if none, a space equal to 20 percent of the average width of the river or stream at the

³² *Id.* at 7-9.

point concerned, which furnishes uninterruptedly, through its course, the deepest water at ordinary low water.

The bill defines the term “prolongation-of-property-line method” to mean establishing the boundary of a property owner’s riparian rights by extending the owner’s property line out into the waterbody at the same angles at which they intersect the ordinary high watermark.

This preference does not apply to littoral waters, such as a lake, an ocean, or a gulf; and it only applies when establishing the boundaries of riparian rights after July 1, 2022.

The bill amends s. 253.141(1), F.S., to provide that in a civil action relating to the riparian rights of a residential dock owner, when such rights are exercised with all appropriate environmental and regulatory approvals and permits, in which the defendant is the prevailing party, the court must award reasonable attorney fees and costs to the prevailing party.

The bill reenacts ss. 403.813(1)(s) and s. 403.9323(3), F.S., for the purpose of incorporating the amendments to s. 253.141(1), F.S., into same.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 253.141 of the Florida Statutes. The bill reenacts ss. 403.813(1)(s) and s. 403.9323(3), F.S.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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1 A bill to be entitled
2 An act relating to residential property riparian
3 rights; amending s. 253.141, F.S.; requiring land
4 surveyors to give preference to using the
5 prolongation-of-property-line method to establish a
6 property owner's riparian rights along a channel under
7 certain circumstances; defining terms; providing
8 applicability; requiring courts to award reasonable
9 attorney fees and costs to a prevailing party in a
10 civil action under certain circumstances; reenacting
11 ss. 403.813(1)(s) and 403.9323(3), F.S., relating to
12 permits issued at district centers and legislative
13 intent in recognizing rights of riparian property
14 ownership, respectively, to incorporate the amendment
15 made to s. 253.141, F.S., in references thereto;
16 providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsection (1) of section 253.141, Florida
21 Statutes, is amended to read:

22 253.141 Riparian rights defined; certain submerged bottoms
23 subject to private ownership.—

24 (1) (a) Riparian rights are those incident to land
25 bordering upon navigable waters. They are rights of ingress,

egress, boating, bathing, and fishing and such others as may be or have been defined by law. Such rights are not of a proprietary nature. They are rights inuring to the owner of the riparian land but are not owned by him or her. They are appurtenant to and are inseparable from the riparian land. The land to which the owner holds title must extend to the ordinary high watermark of the navigable water in order that riparian rights may attach. Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running therewith whether or not mentioned in the deed or lease of the upland.

(b) When establishing the boundaries of a residential property owner's riparian rights along a channel, for purposes of the construction of docks, piers, marinas, moorings, pilings, and other private improvements, land surveyors must give preference to the prolongation-of-property-line method unless doing so would result in inequitable apportionment of riparian rights among property owners along the channel.

1. As used in this paragraph, the term:

a. "Channel" means the marked, buoyed, or artificially dredged channel, if any, or if none, means a space equal to 20 percent of the average width of the river or stream at the point concerned which furnishes uninterruptedly, through its course, the deepest water at ordinary low water.

b. "Prolongation-of-property-line method" means

51 establishing the boundary of a property owner's riparian rights
52 by extending the owner's property line out into the waterbody at
53 the same angles at which they intersect the ordinary high
54 watermark.

55 2. This paragraph does not apply to littoral waters, such
56 as a lake, an ocean, or a gulf.

57 3. This paragraph applies only when establishing the
58 boundaries of riparian rights after July 1, 2022.

59 (c) In a civil action relating to the riparian rights of a
60 residential dock owner, when such rights are exercised with all
61 appropriate environmental and regulatory approvals and permits,
62 in which the defendant is the prevailing party, the court shall
63 award reasonable attorney fees and costs to the prevailing
64 party.

65 Section 2. For the purpose of incorporating the amendment
66 made by this act to section 253.141, Florida Statutes, in a
67 reference thereto, paragraph (s) of subsection (1) of section
68 403.813, Florida Statutes, is reenacted to read:

69 403.813 Permits issued at district centers; exceptions.—

70 (1) A permit is not required under this chapter, chapter
71 373, chapter 61-691, Laws of Florida, or chapter 25214 or
72 chapter 25270, 1949, Laws of Florida, and a local government may
73 not require a person claiming this exception to provide further
74 department verification, for activities associated with the
75 following types of projects; however, except as otherwise

76 provided in this subsection, this subsection does not relieve an
77 applicant from any requirement to obtain permission to use or
78 occupy lands owned by the Board of Trustees of the Internal
79 Improvement Trust Fund or a water management district in its
80 governmental or proprietary capacity or from complying with
81 applicable local pollution control programs authorized under
82 this chapter or other requirements of county and municipal
83 governments:

84 (s) The construction, installation, operation, or
85 maintenance of floating vessel platforms or floating boat lifts,
86 provided that such structures:

87 1. Float at all times in the water for the sole purpose of
88 supporting a vessel so that the vessel is out of the water when
89 not in use;

90 2. Are wholly contained within a boat slip previously
91 permitted under ss. 403.91-403.929, 1984 Supplement to the
92 Florida Statutes 1983, as amended, or part IV of chapter 373, or
93 do not exceed a combined total of 500 square feet, or 200 square
94 feet in an Outstanding Florida Water, when associated with a
95 dock that is exempt under this subsection or associated with a
96 permitted dock with no defined boat slip or attached to a
97 bulkhead on a parcel of land where there is no other docking
98 structure;

99 3. Are not used for any commercial purpose or for mooring
100 vessels that remain in the water when not in use, and do not

101 substantially impede the flow of water, create a navigational
102 hazard, or unreasonably infringe upon the riparian rights of
103 adjacent property owners, as defined in s. 253.141;

104 4. Are constructed and used so as to minimize adverse
105 impacts to submerged lands, wetlands, shellfish areas, aquatic
106 plant and animal species, and other biological communities,
107 including locating such structures in areas where seagrasses are
108 least dense adjacent to the dock or bulkhead; and

109 5. Are not constructed in areas specifically prohibited
110 for boat mooring under conditions of a permit issued in
111 accordance with ss. 403.91-403.929, 1984 Supplement to the
112 Florida Statutes 1983, as amended, or part IV of chapter 373, or
113 other form of authorization issued by a local government.

114
115 Structures that qualify for this exemption are relieved from any
116 requirement to obtain permission to use or occupy lands owned by
117 the Board of Trustees of the Internal Improvement Trust Fund
118 and, with the exception of those structures attached to a
119 bulkhead on a parcel of land where there is no docking
120 structure, may not be subject to any more stringent permitting
121 requirements, registration requirements, or other regulation by
122 any local government. Local governments may require either
123 permitting or one-time registration of floating vessel platforms
124 to be attached to a bulkhead on a parcel of land where there is
125 no other docking structure as necessary to ensure compliance

126 with local ordinances, codes, or regulations. Local governments
127 may require either permitting or one-time registration of all
128 other floating vessel platforms as necessary to ensure
129 compliance with the exemption criteria in this section; to
130 ensure compliance with local ordinances, codes, or regulations
131 relating to building or zoning, which are no more stringent than
132 the exemption criteria in this section or address subjects other
133 than subjects addressed by the exemption criteria in this
134 section; and to ensure proper installation, maintenance, and
135 precautionary or evacuation action following a tropical storm or
136 hurricane watch of a floating vessel platform or floating boat
137 lift that is proposed to be attached to a bulkhead or parcel of
138 land where there is no other docking structure. The exemption
139 provided in this paragraph shall be in addition to the exemption
140 provided in paragraph (b). The department shall adopt a general
141 permit by rule for the construction, installation, operation, or
142 maintenance of those floating vessel platforms or floating boat
143 lifts that do not qualify for the exemption provided in this
144 paragraph but do not cause significant adverse impacts to occur
145 individually or cumulatively. The issuance of such general
146 permit shall also constitute permission to use or occupy lands
147 owned by the Board of Trustees of the Internal Improvement Trust
148 Fund. Local governments may not impose a more stringent
149 regulation, permitting requirement, registration requirement, or
150 other regulation covered by such general permit. Local

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governments may require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

Section 3. For the purpose of incorporating the amendment made by this act to section 253.141, Florida Statutes, in a reference thereto, subsection (3) of section 403.9323, Florida Statutes, is reenacted to read:

403.9323 Legislative intent.—

(3) It is the intent of the Legislature to provide waterfront property owners their riparian right of view, and other rights of riparian property ownership as recognized by s. 253.141 and any other provision of law, by allowing mangrove trimming in riparian mangrove fringes without prior government approval when the trimming activities will not result in the removal, defoliation, or destruction of the mangroves.

Section 4. This act shall take effect upon becoming a law.

By Senator Gruters

23-01194-22

20221650__

A bill to be entitled
An act relating to boating and vessel safety; 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
instructors of water sports and activities to wear
engine cutoff switches under certain conditions;
providing an effective date.

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

Section 1. 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

23-01194-22

20221650__

30 vessel.

31 4. Starting a vessel with the engine in gear.

32 5. Leaving the vessel running when passengers are boarding
33 or disembarking.

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

36
37 The commission must include the components under this subsection
38 in boating safety education campaigns and in educational
39 materials produced by the commission, as appropriate.

40 Section 2. Subsection (4) is added to section 327.50,
41 Florida Statutes, to read:

42 327.50 Vessel safety regulations; equipment and lighting
43 requirements.—

44 (4) The instructor of a water sport or activity must wear
45 an engine cutoff switch for any vessel used in the instruction
46 of the water sport or activity when people participating in the
47 water sport or activity are in the water.

48 Section 3. This act shall take effect July 1, 2022.

CS/HB 701

2022

1 A bill to be entitled
2 An act relating to boating and vessel safety;
3 providing a short title; amending s. 327.395, F.S.;
4 requiring certain boating safety education courses and
5 temporary certificate examinations to include
6 specified components; directing the Fish and Wildlife
7 Conservation Commission to include such components in
8 boating safety education campaigns and certain
9 educational materials; amending s. 327.50, F.S.;
10 requiring operators of vessels used in the instruction
11 of water sports and activities to use engine cutoff
12 switches and wear operative links to the switches
13 under certain conditions; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. This act may be cited as "Ethan's Law."

18 Section 2. Subsection (4) of section 327.395, Florida
19 Statutes, is amended to read:

20 327.395 Boating safety education.—

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

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

26 (b) The danger associated with:

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

30 2. A passenger falling overboard.

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

33 4. Starting a vessel with the engine in gear.

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

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

38
39 The commission must include the components under this subsection
40 in boating safety education campaigns and in educational
41 materials produced by the commission, as appropriate.

42 Section 3. Subsection (4) is added to section 327.50,
43 Florida Statutes, to read:

44 327.50 Vessel safety regulations; equipment and lighting
45 requirements.—

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

50 Section 4. This act shall take effect July 1, 2022.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 701 Boating and Vessel Safety
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee, McFarland
TIED BILLS: **IDEN./SIM. BILLS:** SB 1650

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	18 Y, 0 N, As CS	Neuffer	Keating
2) Environment, Agriculture & Flooding Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, and conserves the fish and wildlife resources within the state. Within the FWC, the Division of Law Enforcement enforces boating rules and regulations, coordinates boating safety campaigns and education, and investigates boating accidents.

Any person born on or after January 1, 1988, who wishes to operate a vessel powered by a motor 10 horsepower or greater must complete a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA). The NASBLA provides minimum standards which are reviewed every five years and apply to all basic boating courses across the U.S. and its territories.

In 2018, federal law went into effect requiring operators of vessels less than 26 feet in length and with three or more horsepower to employ an engine cut-off switch if installed on the vessel. Florida has a similar law but with regard only to jet skis.

The bill may be cited as “Ethan’s Law.”

The bill requires that FWC include as components in boating safety education campaigns and education material, as appropriate, the following:

- The dangers of passengers sitting in areas not designed and designated for seating.
- The operation of a boat with persons in the water nearby.
- The dangers of starting a vessel with the engine in gear.
- The risks of leaving a vessel running while passengers are onboard or disembarking.
- The proper use and benefits of an engine cut-off switch for motorboats and personal watercrafts.

The bill also requires that operators of vessels used in the instruction of water sports or activities use an engine cut-off switch and wear an operative engine cut-off switch link when people participating in the water sport or activity are in the water.

The bill does not have an impact on state or local government revenues. The bill does not have an impact on local government expenditures. The bill may have an insignificant fiscal impact on state government expenditures.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, and conserves the fish and wildlife resources within the state.¹ The Division of Law Enforcement within the FWC is tasked with the enforcement of boating rules and regulations, coordinating boating safety campaigns and education, and investigating boating accidents.

In 2020, there were 836 boating accidents in the state of Florida.² Of those accidents, 79 resulted in fatalities, with 69% of operators having no formal boater education.³

Any person born on or after January 1, 1988, must complete a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA) in order to operate a vessel powered by a motor of 10 horsepower or greater.⁴ Any operator required by statute to complete the boating safety education course must carry a boating education ID card and a photo ID while operating any qualifying vessel.⁵

NASBLA provides minimum standards that apply to all basic boating courses in the U.S. and its territories.⁶ The minimum standards are reviewed every five years with the purpose of establishing a national standard for all courses across the nation. Under current NASBLA standards, courses must describe state-required equipment, such as engine cut-off lanyards or bailing devices.⁷ Courses must additionally cover boat operation, trip planning, and emergency preparation.⁸ There are several courses within the state of Florida which meet NASBLA's 8-hour instruction requirement, ranging from no cost to \$50.⁹ A boating safety education course card is valid for life unless it was obtained through a temporary examination, in which instance it is valid for only 90 days.¹⁰

Florida law specifies certain equipment and lighting standards for all vessels operated in the waters of the state, and identifies the equipment which must be carried, stored, maintained, and used in accordance with current United States Coast Guard (USCG) safety equipment requirements.¹¹

Federal law requires any individual operating a covered recreational vessel¹² to use an engine cut-off switch link while operating on plane or above displacement speed.¹³ Any manufacturer, distributor, or dealer of propulsion machinery associated with starting controls on a covered recreational vessel must equip such vessel with an engine cut-off switch and an engine cut-off switch link.¹⁴ Engine cut-off switches are normally coiled bungee cords but can also be electronic wireless devices. They operate to

¹ Art. IV, s. 9, Fla. Const.

² Florida Fish and Wildlife Conservation Commission, *2020 Boating Accident Statistical Report*, 2020, <https://myfwc.com/media/26463/2020-basr-booklet.pdf> (last visited January 13, 2022).

³ *Id.*

⁴ See s. 327.395(6)(a)-(g), F.S., (listing exemptions from the boating safety education course requirement).

⁵ S. 327.395(2), F.S.

⁶ See ANSI/NASBLA, *103-2016: Basic Boating Knowledge – Power* (November 18, 2015).

⁷ See National Association of State Boating Law Administrators, *NASBLA Policy: Basic Boating Education Course Approval* (September 13, 2016) (describing the minimum educational requirements of a boating course for NASBLA approval).

⁸ *Id.*

⁹ FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited January 4, 2022).

¹⁰ S. 327.395(5), F.S.

¹¹ S. 327.50, F.S.

¹² See 46 U.S.C. § 4312(e)(1) (defining covered recreational vessel as a recreational vessel that is less than 26 feet overall in length and capable of developing 115 pounds or more of static thrust); see 46 U.S.C. § 4312(e)(6) (defining static thrust as the forward or backwards thrust developed by propulsion machinery while stationary).

¹³ 46 U.S.C. § 4312(b).

¹⁴ 46 U.S.C. § 4312(a).

shut off the engine if the operator is separated from the operating area, reducing the dangers created by a runaway vessel or impact with the spinning propeller.¹⁵ A person in violation of this law is liable for a civil penalty to the United States Government of not more than \$100 for the first offense,¹⁶ \$250 for the second offense,¹⁷ and \$500 for any subsequent offense.¹⁸ Although the law did not go into effect until 2018, most U.S. boat manufacturers had already voluntarily installed engine cut-off switches on their boats.¹⁹ Exceptions are provided for vessels if the main helm is within an enclosed cabin, or if the vessel is not required to have an engine cut-off switch.²⁰

Florida's current law provides a similar mandate but only for personal watercraft, commonly identified as jet skis.²¹

Effect of Proposed Changes

The bill expands the list of topics that must be covered in FWC boating safety education campaigns and commission materials to include:

- The dangers of passengers sitting in areas not designed and designated for seating.
- The operation of a boat with persons in the water nearby.
- The dangers of starting a vessel with the engine in gear.
- The risks of leaving a vessel running while passengers are onboarding or disembarking.
- The proper use and benefits of an engine cut-off switch for motorboats and personal watercrafts.

The bill also requires the operator of a vessel used in a water sport or activity which causes participants to be in the water to use an engine cutoff switch and wear an operative link to the switch when participants are in the water. The bill does not provide a legal penalty for failure to comply with the bill.

B. SECTION DIRECTORY:

Section 1 Provides a short title.

Section 2 Amends s. 327.395, F.S.; relating to boating safety education.

Section 3 Amends s. 327.50, F.S.; relating to vessel safety regulations.

Section 4 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹⁵ USCG, *Engine Cut-Off Switches*, *supra*.

¹⁶ 46 U.S.C. § 4311(c)(1).

¹⁷ 46 U.S.C. § 4311(c)(2).

¹⁸ 46 U.S.C. § 4311(c)(3).

¹⁹ United States Coast Guard, *Engine Cut-Off Switches*, <https://uscgboating.org/recreational-boaters/engine-cut-off-devices.php> (last visited January 4, 2022).

²⁰ 46 U.S.C. § 4312(b)(2).

²¹ S. 327.39, F.S.; see s. 327.02(37) (defining "personal watercraft" as a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel).

2. Expenditures:

The bill appears to have an insignificant impact to FWC expenditures necessary to incorporate the required items into education campaigns and materials.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motorized vessels that are not covered under federal law and which are used for the instruction of water sports and activities will be required to have an engine cut-off switch installed if not already equipped with one.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 18, 2022, the Tourism, Infrastructure & Energy Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Provided the act be designated "Ethan's Law."
- Clarified that the operator of a vessel used in the instruction of a water sport or activity must use an engine cutoff switch and operative link.

This analysis is drafted to the committee substitute as approved by the Tourism, Infrastructure & Energy Subcommittee.

By the Committee on Environment and Natural Resources; and
Senator Rodriguez

592-02073-22

20221432c1

A bill to be entitled
An act relating to vessel anchoring; amending s.
253.0346, F.S.; providing tenancy and lease conditions
for approved and permitted mooring and mooring fields
in Monroe County; amending s. 327.4108, F.S.;
requiring certain anchored vessels in Monroe County to
be re-anchored in a new location that meets certain
requirements according to a specified timeframe;
requiring the Fish and Wildlife Conservation
Commission, in consultation with certain entities, to
establish designated anchoring areas within the county
by rule; providing requirements for the designated
anchoring areas; providing an exception for certain
domiciled vessels; removing provisions requiring the
county to approve a specified number of moorings at
specified locations; requiring certain vessels
equipped with marine sanitation devices to maintain
specified records of such devices; providing an
effective date.

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

Section 1. Present subsection (4) of section 253.0346,
Florida Statutes, is redesignated as subsection (5), and a new
subsection (4) is added to that section, to read:

253.0346 Lease of sovereignty submerged lands for marinas,
boatyards, mooring fields, and marine retailers.—

(4) Notwithstanding any other law, all of the following
conditions apply for approved and permitted moorings or mooring

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fields in Monroe County:

(a) The general tenancy on a mooring may exceed 12 months, if requested, but may not exceed 10 years.

(b) A sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field or limit the tenancy of a vessel because an individual has established it as his or her domicile in accordance with s. 222.17 or because the vessel is an individual's primary residence.

Section 2. Subsection (3) of section 327.4108, Florida Statutes, is amended to read:

327.4108 Anchoring of vessels in anchoring limitation areas.—

(3) (a) Monroe County is designated as an anchoring limitation area within which no less than once every ~~a vessel on waters of the state may only be anchored in the same location for a maximum of~~ 90 days each vessel anchored within Monroe County on waters of this state within 10 linear nautical miles of a public mooring field or a designated anchoring area must pull anchor and be moved from its location using the vessel's propulsion system and be re-anchored in a new location. The new location must be:

1. No less than one-half linear nautical mile from the vessel's starting location. A vessel may not be re-anchored within one-half linear nautical mile from the vessel's starting location for at least 90 days; or

2. In a different designated anchoring area. A vessel may not be re-anchored in its originating designated anchoring area for at least 90 days after anchoring within a new designated

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59 ~~anchoring area. The commission shall adopt rules to implement~~
60 ~~this subsection.~~

61 (b) The commission, in consultation with Monroe County and
62 the Florida Keys National Marine Sanctuary, shall establish by
63 rule designated anchoring areas throughout the county. The
64 designated anchoring areas must:

65 1. Specify a maximum vessel draft for each area;

66 2. Be created only in locations where the water depth is
67 sufficient to allow vessels whose drafts are less than the
68 area's specified maximum vessel draft to navigate into and out
69 of the areas without grounding or stranding;

70 3. Not be located over coral reefs or other sensitive fish
71 or wildlife habitat, to the maximum extent practicable, as
72 determined by the commission;

73 4. Not be located in an area subject to ongoing hazardous
74 water currents or tides or containing navigational hazards; and

75 5. Not be located within navigational channels, setbacks
76 established by the United States Army Corps of Engineers
77 associated with federal channels, areas where anchoring is
78 prohibited pursuant to s. 327.4109, or any other lawfully
79 established areas that prohibit anchoring.

80 (c) Paragraph (a) does ~~The anchoring limitations in this~~
81 ~~subsection do not apply to vessels moored to approved and~~
82 ~~permitted moorings or mooring fields.~~

83 (d) ~~(c)~~ A vessel upon the waters of this state and within
84 Monroe County for which the owner or occupant has established
85 the vessel as a domicile in accordance with s. 222.17 is exempt
86 from paragraph (a) ~~Notwithstanding the commission rules adopted~~
87 ~~pursuant to this section, this section is not effective for~~

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88 ~~Monroe County until at least 100 the county approves, permits,~~
89 ~~and opens~~ new moorings are available for public use, ~~including~~
90 ~~at least 250 moorings~~ within 1 mile of the Key West Bight City
91 Dock ~~and at least 50 moorings within the Key West Garrison Bight~~
92 ~~Mooring Field~~. Until such time, the commission shall designate
93 the area within 1 mile of the Key West Bight City Dock as a
94 priority for the investigation and removal of derelict vessels.

95 (e) All of the following vessels within Monroe County on
96 waters of this state which are equipped with a marine sanitation
97 device other than a marine composting toilet that processes and
98 manages human waste using technologies that comply with United
99 States Coast Guard requirements must maintain a record of the
100 date of each pumpout of the marine sanitation device and the
101 location of the pumpout station or waste reception facility for
102 1 year after the date of the pumpout, and the record must
103 indicate that the vessel was pumped out within the last 30 days:

104 1. A vessel that:

105 a. Has enclosed living spaces or rooms; and

106 b. Is used by a person as a dwelling or living space
107 overnight at any time, notwithstanding whether or not the vessel
108 is also used for navigation.

109 2. A vessel moored in a public mooring field.

110 Section 3. This act shall take effect July 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: CS/SB 1432

INTRODUCER: Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Vessel Anchoring

DATE: January 18, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1432 amends statutes relating to vessel anchoring and mooring. The bill provides that approved and permitted moorings or mooring fields in Monroe County have a 10 year limit on general tenancies and that a sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field, or limit the tenancy of a vessel, because it is an established domicile or a primary residence.

The bill clarifies that Monroe County is designated as an anchoring limitation area in which vessels anchored on waters of the state within the county and within 10 linear nautical miles of a public mooring field or designated anchoring area must:

- Pull anchor,
- Move under their own power, and
- Re-anchor a certain distance away or in a different designated anchoring area.

This must occur at least once every 90 days. The requirement does not apply to vessels moored to approved and permitted moorings, or to domiciled vessels on the waters of the state within the county, until at least 100 new moorings are available for public use within 1 mile of Key West Bight City Dock. The bill removes the provisions requiring the county to approve of a certain number of moorings at certain locations.

The bill requires the Fish and Wildlife Conservation Commission to consult with Monroe County and the Florida Keys National Marine Sanctuary to establish designated anchoring areas throughout the county that meet certain criteria.

The bill requires certain vessels on the waters of the state within Monroe County that are equipped with a marine sanitation device to maintain a record of the date and location of each pump-out of the device, which must occur every 30 days, for one year after the date of the pump-out.

II. Present Situation:

Sovereign Submerged Lands

Sovereign submerged lands are owned by the state and include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line,¹ beneath navigable fresh water or tidally-influenced waters.² Under the Florida Constitution, the title to all sovereign submerged lands is held by the state in trust for the people.³ The public generally has the right to use sovereign submerged lands for traditional recreational purposes such as swimming, boating, and fishing.⁴

The Board of Trustees of the Internal Improvement Trust Fund, comprised of the Governor and Cabinet, holds title to all sovereign submerged lands in the state.⁵ Chapter 18-21 of the Florida Administrative Code lists the various forms of authorization necessary for specified activities on sovereign submerged lands, including submerged land leases.⁶

Rule 18-21.0041 specifically addresses leases, easements, or consent to use sovereignty submerged lands in Monroe County for multi-slip docking facilities.⁷ Certain general policies and specific criteria must be considered in determining whether to allow the use of sovereignty submerged lands for multi-slip docking facilities.⁸ The general policies include:

- Taking into account the proximity to and potential adverse impacts on any rare, threatened, or endangered species, or species of special concern, or their habitat, or on any portion of the Florida Reef Tract and other corals;
- Eliminating any adverse impacts on wetland or submerged vegetation or benthic communities;
- Maintaining or enhancing water quality;

¹ Fla. Admin. Code R. 18-21.003(67). The mean high water line is the point on the shore marking the average height of the high waters over a 19-year period, and it is the boundary between the state-owned foreshore (land alternately covered and uncovered by the tide) and the dry area above the mean high water line that is subject to private ownership. *See ss.* 177.27(14), (15) and 177.28(1), F.S.

² Fla. Admin. Code R. 18-21.003(67).

³ FLA. CONST. art. X, s. 11.

⁴ Fla. Admin. Code R. 18-21.004(2)(a); *see also 5F, LLC v. Hawthorne*, 317 So. 3d 220, 223 (Fla. 2d DCA 2021) (identifying the same traditional uses).

⁵ Sections 253.03 and 253.12(1), F.S.

⁶ *See* Fla. Admin. Code R. 18-21.005.

⁷ A multi-slip docking facility is a marina or dock designed to moor three or more vessels. Fla. Admin. Code R. 18-20.003(41).

⁸ Fla. Admin. Code R. 18-20.003.

- Requiring adequate water depths to avoid dredging and other bottom disturbance;
- Requiring consistency and conformity with local government land use plans, zoning, and other land use or development regulations; and
- Requiring consistency and conformity with the Principles for Guiding Development in the Florida Keys Area of Critical State Concern.⁹

The specific criteria include:

- A moratorium on the approval of all leases of state owned submerged lands for multi-slip docking facilities from Tea Table Channel north to the Monroe County Line;
- No docking facilities that require either dredging or filling to provide access;
- Water depth requirements;
- Requirements for the size of the dock;
- For any new or expanded docking facility for 10 or more boats, a specific lease condition that the lessee shall maintain water quality standards;
- An application review for new docking facilities or expansions to existing facilities to identify ways to improve, mitigate or restore adverse environmental impacts caused by previous activities;
- A lease requirement for all applicants proposing docking facilities designed to moor 10 or more boats;
- Documentation from all applicants to show that there is an economic demand for the number of boat slips requested;
- No benthic communities present where the boat mooring area, turning basins, mooring piles, or other structures are to be located, excepting any main access docks required to cross benthic communities to reach acceptable areas; and
- Special consideration for certain projects to further the commercial fishing village or commercial fishing enterprise zone concept.¹⁰

Fish and Wildlife Conservation Commission

The Division of Law Enforcement Boating and Waterways Section of the Florida Fish and Wildlife Conservation Commission (FWC) oversees and coordinates statewide regulatory waterway markers to ensure compliance with uniform markers and state boating and resource protection zones for the benefit of all waterway users and fish and wildlife resources in the state.¹¹ The Boating and Waterways Section takes public input and provides notice of proposed local boating-restricted areas.¹²

FWC's boating laws are enforced by the Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.¹³ The

⁹ Fla. Admin. Code R. 18-20.003(2).

¹⁰ Fla. Admin. Code R. 18-20.003(3).

¹¹ FWC, *Waterway Management*, <https://myfwc.com/boating/waterway/> (last visited Jan. 11, 2022).

¹² *Id.*

¹³ Section 327.70(1), F.S.; *see s.* 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management

Division of Law Enforcement manages the state's waterways to ensure boating safety for residents of and visitors to the state.¹⁴ This includes enforcing boating rules and regulations; coordinating boating safety campaigns and education; managing public waters and access to the waters; conducting boating accident investigations; identifying and removing derelict vessels; and investigating vessel theft and title fraud.¹⁵

Anchoring or Mooring

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.¹⁶ Mooring is accomplished through the use of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.¹⁷

Local Regulation of Anchoring or Mooring of Vessels

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.¹⁸ Mooring fields must be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters that the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scraping and painting are not authorized within mooring fields.¹⁹

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures²⁰ or live-aboard vessels²¹ within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.²² However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or

responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

¹⁴ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Jan. 11, 2022).

¹⁵ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Jan. 11, 2022). See s. 327.70(1) and (4), F.S.

¹⁶ Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

¹⁷ Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at https://www.flseagrant.org/wp-content/uploads/anchoring_away_5_12_update_web.pdf (last visited Jan. 11, 2022).

¹⁸ See s. 373.118, F.S., and Fla. Admin. Code R. 62-330.420(1).

¹⁹ See Fla. Admin. Code R. 62-330.420.

²⁰ Section 327.02, F.S., defines the term "floating structure" as a "floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such."

²¹ Section 327.02, F.S., defines the term "live-aboard vessel" as "a vessel used solely as a residence and not for navigation; a vessel for which a declaration of domicile has been filed; or a vessel used as a residence that does not have an effective means of propulsion for safe navigation. The definition expressly excludes commercial fishing boats."

²² Section 327.60(3), F.S.

local regulation that regulates the anchoring of vessels, other than live-aboard vessels and non-fishing commercial vessels, outside the marked boundaries of permitted mooring fields.²³

Anchoring Limitation Areas

State law designates certain densely populated urban areas as anchoring limitation areas.²⁴ These areas usually have narrow state waterways, residential docking facilities, and significant recreational boating traffic.²⁵ Counties may create more anchoring limitation areas under certain circumstances.²⁶

In 2021, Monroe County was designated as an anchoring limitation area within which a vessel on waters of the state may only be anchored in the same location for a maximum of 90 days.²⁷ FWC adopts rules to implement this.²⁸ Notwithstanding FWC's rules, this limitation is only effective for Monroe County until the county approves, permits, and opens new moorings for public use, including at least 250 moorings within 1 mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field.²⁹

The following are some exceptions that allow anchoring in an anchoring limitation area:

- When a vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors;
- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors;
- During certain special events;³⁰ or
- Certain government, construction, and fishing vessels.³¹

Law enforcement officers or agencies may remove and impound, for up to 48 hours, vessels from anchoring limitation areas when a vessel operator who was previously issued a citation:

- Continues to anchor the vessel in an anchoring limitation area within 12 hours of being issued a citation; or
- Refuses to leave the anchoring limitation area after being directed to do so by a law enforcement officer or agency.³²

In addition to the civil penalty imposed by a citation, a vessel operator whose vessel has been impounded must pay all of the applicable removal and storage fees before the vessel is released.³³

²³ Section 327.60(2)(f), F.S.

²⁴ Section 327.4108(1), F.S.

²⁵ *Id.*

²⁶ *Id.*; Section 327.4108(2), F.S.

²⁷ Section 327.4108(3), F.S.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 327.4108(3), F.S.; *see also* s. 327.48, F.S.

³¹ Section 327.4108(4), F.S.

³² Section 327.4108(5), F.S.

³³ *Id.*

An owner or operator of a vessel who anchors in an anchoring limitation area commits a noncriminal infraction and is subject to a uniform boating citation and penalties. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third or subsequent offense.³⁴

Section 327.73(1) F.S., provides that any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws, be charged with a second degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days imprisonment.³⁵

Marine Sanitation Devices

A marine sanitation device is equipment, other than a toilet, for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage.³⁶ The U.S. Coast Guard categorizes marine sanitation devices into three types:

- Type I devices are flow-through treatment devices that commonly use maceration and disinfection for the treatment of sewage;
- Type II devices are flow-through treatment devices that may employ biological treatment and disinfection;
- Type III devices are typically a holding tank where sewage is stored until it can be discharged shore-side or at sea (beyond three miles from shore).³⁷

Raw sewage cannot be discharged from any vessel or any floating structure in Florida waters.³⁸ All waste from Type III marine sanitation devices must be disposed of in an approved sewage pump-out facility.³⁹ A violation of the marine sanitation laws is a noncriminal infraction.⁴⁰

No-Discharge Zones

A no-discharge zone is a designated body of water that prohibits the discharge of treated and untreated boat sewage.⁴¹ Within the boundaries of a no-discharge zone, vessel operators are required to retain their sewage discharges onboard for discharge at sea (beyond three miles from the Atlantic shore and beyond nine miles from the Gulf shore) or onshore at a pump-out facility.

³⁴ Section 327.73(1)(z), F.S.

³⁵ Sections 775.082 and 775.083, F.S.

³⁶ Section 327.02, F.S.

³⁷ EPA, *Marine Sanitation Devices (MSDs)*, <https://www.epa.gov/vessels-marinas-and-ports/marine-sanitation-devices-msds> (last visited Jan. 11, 2022).

³⁸ Section 327.53(4), F.S.

³⁹ *Id.*

⁴⁰ Section 327.53(6)(a), F.S.

⁴¹ U.S. Environmental Protection Agency, *Vessel Sewage Discharges: No-Discharge Zones*, <https://www.epa.gov/vessels-marinas-and-ports/vessel-sewage-no-discharge-zones> (last visited Jan. 12, 2022).

Currently, Florida has three designated no-discharge zones. They are Destin Harbor,⁴² the city of Key West waters,⁴³ and the state waters within the Florida Keys National Marine Sanctuary.⁴⁴

III. Effect of Proposed Changes:

Section 1 amends s. 253.0346, F.S., to provide that notwithstanding any other law, all of the following conditions apply for approved and permitted moorings or mooring fields in Monroe County:

- The general tenancy on a mooring may exceed 12 months, if requested, but not 10 years.
- A sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field or limit a vessel's tenancy because it is a domicile or primary residence.

Section 2 amends s. 327.4108, F.S., to clarify that Monroe County is designated as an anchoring limitation area within which no less than once every 90 days each vessel anchored within Monroe County on waters of the state within 10 linear nautical miles of a public mooring field or a designated anchoring area must pull anchor, be moved from its location using the vessel's propulsion system,⁴⁵ and be re-anchored in a new location. The bill provides that the location must be:

- No less than one-half linear nautical mile from the vessel's starting location. A vessel may not be re-anchored within one-half linear nautical mile from the vessel's starting location for at least 90 days; or
- In a different designated anchoring area. A vessel may not be re-anchored in its originating designated anchoring area for at least 90 days after anchoring within a new designated anchoring area.

This relocation requirement does not apply to:

- Vessels moored to approved and permitted moorings and
- Vessels for which domicile has been established, until at least 100 new moorings are available for public use within one mile of the Key West Bight City Dock.

The changes above replace the following provisions:

- Anchoring limitations do not apply to mooring fields; and
- Anchoring limitations are not effective for Monroe County until the county approves, permits, and opens new moorings, including at least 250 moorings within one mile of the Key West Bight City Dock and at least 50 moorings in the Key West Garrison Bight Mooring Field.

⁴² Marine Sanitation Device Standard for Destin Harbor, 53 Fed. Reg. 1,678 (Jan. 21, 1988).

⁴³ City of Key West No Discharge Zone Determination, 64 Fed. Reg. 46,390 (Aug. 25, 1999).

⁴⁴ Regulation to Establish a No Discharge Zone for State Waters within the Boundary of the Florida Keys National Marine Sanctuary, 67 FR 35735 (May 21, 2002). The Florida Keys National Marine Sanctuary protects the 3,800 square miles of waters surrounding the Florida Keys from Miami to the Tortugas. NOAA, *Florida Keys National Marine Sanctuary Boundary*, <https://floridakeys.noaa.gov/about/welcome.html?s=about> (last visited Jan. 12, 2022).

⁴⁵ "Effective means of propulsion for safe navigation" means a vessel, other than a barge, that is equipped with: a functioning motor, controls, and steering system; or rigging and sails that are present and in good working order, and a functioning steering system. Section 327.02(13), F.S.

The bill replaces the Fish and Wildlife Conservation Commission's (FWC's) existing rulemaking authority with the requirement that FWC, in consultation with Monroe County and the Florida Keys National Marine Sanctuary, establish by rule designated anchoring areas throughout the county. The designated anchoring areas must:

- Specify a maximum vessel draft for each area;
- Be created only in locations where the water depth is sufficient to allow vessels whose drafts are less than the area's specified maximum vessel draft to navigate the areas without grounding or stranding;
- Not be located over coral reefs or other sensitive fish or wildlife habitat, to the maximum extent practicable, as determined by FWC;
- Not be located in an area subject to ongoing hazardous water currents or tides or containing navigational hazards; and
- Not be located within navigational channels, setbacks established by the U.S. Army Corps of Engineers associated with federal channels, areas where anchoring is prohibited, or any other lawfully established areas that prohibit anchoring.

The bill provides that all of the following vessels within Monroe County on waters of the state which are equipped with a marine sanitation device, other than a marine composting toilet, that processes and manages human waste using technologies that comply with U.S. Coast Guard requirements must maintain a record of the date and location of each pump-out of the marine sanitation device, which must occur every 30 days, for one year after the date of the pump-out:

- A vessel that has enclosed living spaces or rooms and is used by a person as a dwelling or living space overnight at any time, notwithstanding whether the vessel is also used for navigation; and
- A vessel moored in a public mooring field.

Section 3 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

A general law operates universally throughout the state, uniformly on specific subjects throughout the state, or uniformly within a permissible classification, or relates to a state function or entity.⁴⁶ Uniform operation of a general law does not require application throughout the state; instead there must be a reasonable possibility that others in the future may meet the criteria of the classification.⁴⁷ A general law of local application is a form of general law that operates within only a portion of the state due to a valid classification based on proper distinctions and differences.⁴⁸ Article III, Section 10 of the Florida Constitution does not place any burdens or requirements on the Legislature's ability to pass a general law of local application.

A special law is a law that operates on a specific category of people or subjects, and the classification is impermissible or illegal.⁴⁹ A special law requires prior publication of a notice of intent to seek passage, or it may become effective after approval by the affected voters in a referendum.⁵⁰ A local law is a form of special law that operates only in a specific geographic area or in a classified territory when classification is impermissible or illegal.⁵¹

The bill amends statutes relating to vessel anchoring and mooring and documentation of marine sanitation device pump-out in Monroe County.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Owners of vessels in Monroe County on waters of the state that are equipped with a marine sanitation device and that have enclosed living spaces or rooms and are used as a dwelling or living space overnight at any time, may experience a negative fiscal impact due to the requirement that they have proof of a marine sanitation device pumpout every 30 days.

C. Government Sector Impact:

None.

⁴⁶ State Affairs Committee and Local Administration and Veterans Affairs Subcommittee, *Local Bills Policies and Procedures Manual 2020-2022*, 1, available at <https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Bill+Policy+and+Procedures+Manual.pdf>.

⁴⁷ *Id.* at 1-2.

⁴⁸ *Id.* at 2.

⁴⁹ *Id.* at 2-3.

⁵⁰ *Id.* at 3.

⁵¹ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 253.0346 and 327.4108 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources on January 18, 2022:

- Clarifies that a bill requirement applies to “linear” nautical miles.
- Adds that the record of the date and location of each marine sanitation device pumpout that certain vessels in Monroe County are required to maintain must also indicate that the vessel was pumped out within the last 30 days.

B. Amendments:

None.

1 A bill to be entitled
2 An act relating to vessel anchoring; amending s.
3 253.0346, F.S.; providing tenancy and lease conditions
4 for approved and permitted mooring and mooring fields
5 in Monroe County; amending s. 327.4108, F.S.;
6 requiring certain anchored vessels in Monroe County to
7 be re-anchored in a new location that meets certain
8 requirements according to a specified timeframe;
9 requiring the Fish and Wildlife Conservation
10 Commission, in consultation with certain entities, to
11 establish designated anchoring areas within the county
12 by rule; providing requirements for the designated
13 anchoring areas; providing an exception for certain
14 domiciled vessels; removing provisions requiring the
15 county to approve a specified number of moorings at
16 specified locations; requiring certain vessels
17 equipped with marine sanitation devices to maintain
18 specified records of such devices; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Present subsection (4) of section 253.0346,
24 Florida Statutes, is redesignated as subsection (5), and a new
25 subsection (4) is added to that section, to read:

26 253.0346 Lease of sovereignty submerged lands for marinas,
27 boatyards, mooring fields, and marine retailers.—

28 (4) Notwithstanding any other law, all of the following
29 conditions apply for approved and permitted moorings or mooring
30 fields in Monroe County:

31 (a) The general tenancy on a mooring may exceed 12 months,
32 if requested, but may not exceed 10 years.

33 (b) A sovereign submerged land or other proprietary lease
34 may not prohibit a vessel from an approved and permitted mooring
35 or mooring field or limit the tenancy of a vessel because an
36 individual has established it as his or her domicile in
37 accordance with s. 222.17 or because the vessel is an
38 individual's primary residence.

39 Section 2. Subsection (3) of section 327.4108, Florida
40 Statutes, is amended to read:

41 327.4108 Anchoring of vessels in anchoring limitation
42 areas.—

43 (3)(a) Monroe County is designated as an anchoring
44 limitation area within which no less than once every ~~a vessel on~~
45 ~~waters of the state may only be anchored in the same location~~
46 ~~for a maximum of 90 days~~ each vessel anchored within Monroe
47 County on waters of this state within 10 nautical miles of a
48 public mooring field or a designated anchoring area must pull
49 anchor and be moved from its location using the vessel's
50 propulsion system and be re-anchored in a new location. The new

51 location must be:

52 1. No less than one-half linear nautical mile from the
53 vessel's starting location. A vessel may not be re-anchored
54 within one-half linear nautical mile from the vessel's starting
55 location for at least 90 days; or

56 2. In a different designated anchoring area. A vessel may
57 not be re-anchored in its originating designated anchoring area
58 for at least 90 days after anchoring within a new designated
59 anchoring area. ~~The commission shall adopt rules to implement~~
60 ~~this subsection.~~

61 (b) The commission, in consultation with Monroe County and
62 the Florida Keys National Marine Sanctuary, shall establish by
63 rule designated anchoring areas throughout the county. The
64 designated anchoring areas must:

65 1. Specify a maximum vessel draft for each area;

66 2. Be created only in locations where the water depth is
67 sufficient to allow vessels whose drafts are less than the
68 area's specified maximum vessel draft to navigate into and out
69 of the areas without grounding or stranding;

70 3. Not be located over coral reefs or other sensitive fish
71 or wildlife habitat, to the maximum extent practicable, as
72 determined by the commission;

73 4. Not be located in an area subject to ongoing hazardous
74 water currents or tides or containing navigational hazards; and

75 5. Not be located within navigational channels, setbacks

76 established by the United States Army Corps of Engineers
77 associated with federal channels, areas where anchoring is
78 prohibited pursuant to s. 327.4109, or any other lawfully
79 established areas that prohibit anchoring.

80 (c) Paragraph (a) does ~~The anchoring limitations in this~~
81 ~~subsection do~~ not apply to vessels moored to approved and
82 permitted moorings ~~or mooring fields.~~

83 (d)-(e) A vessel upon the waters of this state and within
84 Monroe County for which the owner or occupant has established
85 the vessel as a domicile in accordance with s. 222.17 is exempt
86 from paragraph (a) Notwithstanding the commission rules adopted
87 pursuant to this section, this section is not effective for
88 ~~Monroe County~~ until at least 100 ~~the county approves, permits,~~
89 ~~and opens~~ new moorings are available for public use, ~~including~~
90 ~~at least 250 moorings~~ within 1 mile of the Key West Bight City
91 Dock ~~and at least 50 moorings within the Key West Garrison Bight~~
92 ~~Mooring Field.~~ Until such time, the commission shall designate
93 the area within 1 mile of the Key West Bight City Dock as a
94 priority for the investigation and removal of derelict vessels.

95 (e) All of the following vessels within Monroe County on
96 waters of this state which are equipped with a marine sanitation
97 device other than a marine composting toilet that processes and
98 manages human waste using technologies that comply with United
99 States Coast Guard requirements must maintain a record of the
100 date of each pumpout of the marine sanitation device and the

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location of the pumpout station or waste reception facility for
1 year after the date of the pumpout:

1. A vessel that:

a. Has enclosed living spaces or rooms; and

b. Is used by a person as a dwelling or living space
overnight at any time, notwithstanding whether or not the vessel
is also used for navigation.

2. A vessel moored in a public mooring field.

Section 3. This act shall take effect July 1, 2022.

By Senator Baxley

12-01042-22

20221546__

A bill to be entitled
An act relating to vessel safety flags; amending s.
327.391, F.S.; removing the requirement that airboats
be equipped with masts or flagpoles bearing certain
safety flags; amending s. 327.50, F.S.; prohibiting
the operation and anchoring of vessels without masts
or flagpoles bearing certain safety flags under
specified conditions; providing applicability;
providing penalties; amending s. 327.73, F.S.;
conforming provisions to changes made by the act;
providing an effective date.

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

Section 1. Subsections (1) and (3) of section 327.391,
Florida Statutes, are amended to read:

327.391 Airboats regulated.—

(1) The exhaust of every internal combustion engine used on
any airboat operated on the waters of this state shall be
provided with an automotive-style factory muffler, underwater
exhaust, or other manufactured device capable of adequately
muffling the sound of the exhaust of the engine as described in
s. 327.02(31). The use of cutouts or flex pipe as the sole
source of muffling is prohibited, except as provided in
subsection (3) ~~(4)~~. A person who violates this subsection
commits a noncriminal infraction, punishable as provided in s.
327.73(1).

~~(3) An airboat may not operate on the waters of the state
unless it is equipped with a mast or flagpole bearing a flag at~~

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~~a height of at least 10 feet above the lowest portion of the vessel. The flag must be square or rectangular, at least 10 inches by 12 inches in size, international orange in color, and displayed so that the visibility of the flag is not obscured in any direction. Any person who violates this subsection commits a noncriminal infraction punishable as provided in s. 327.73(1).~~

Section 2. Subsection (4) is added to section 327.50, Florida Statutes, to read:

327.50 Vessel safety regulations; equipment and lighting requirements.—

(4) A vessel may not operate or be anchored on the waters of this state where visibility is limited by vegetation that extends 18 inches or higher above the current water line and is present within 10 feet on both sides of the vessel unless the vessel is equipped with a mast or flagpole bearing a flag at a height of at least 10 feet above the lowest portion of the vessel. The flag must meet design, minimum size, and color requirements as established by commission rule and be displayed so that the visibility of the flag is not obscured in any direction. This subsection does not apply to a vessel that has a height greater than 10 feet above the water line. A person who violates this subsection commits a noncriminal infraction punishable as provided in s. 327.73(1).

Section 3. Paragraphs (m) and (w) of subsection (1) 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:

(m) Section 327.50(1), ~~and~~ (2), and (4) relating to

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required safety equipment, lights, ~~and~~ shapes, and flags.

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

Any person cited for a violation of any provision of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the boating laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 4. This act shall take effect July 1, 2023.

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1 A bill to be entitled
2 An act relating to vessel safety flags; amending s.
3 327.391, F.S.; removing the requirement that airboats
4 be equipped with masts or flagpoles bearing certain
5 safety flags; amending s. 327.50, F.S.; prohibiting
6 the operation and anchoring of vessels without masts
7 or flagpoles bearing certain safety flags under
8 specified conditions; providing applicability;
9 providing penalties; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Effective July 1, 2023, subsections (4) and (5)
14 of section 327.391, Florida Statutes, are renumbered as
15 subsections (3) and (4), respectively, and subsection (1) and
16 present subsection (3) of that section are amended, to read:

17 327.391 Airboats regulated.—

18 (1) The exhaust of every internal combustion engine used
19 on any airboat operated on the waters of this state shall be
20 provided with an automotive-style factory muffler, underwater
21 exhaust, or other manufactured device capable of adequately
22 muffling the sound of the exhaust of the engine as described in
23 s. 327.02(31). The use of cutouts or flex pipe as the sole
24 source of muffling is prohibited, except as provided in
25 subsection (3) ~~(4)~~. A person who violates this subsection

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commits a noncriminal infraction, punishable as provided in s. 327.73(1).

~~(3) An airboat may not operate on the waters of the state unless it is equipped with a mast or flagpole bearing a flag at a height of at least 10 feet above the lowest portion of the vessel. The flag must be square or rectangular, at least 10 inches by 12 inches in size, international orange in color, and displayed so that the visibility of the flag is not obscured in any direction. Any person who violates this subsection commits a noncriminal infraction punishable as provided in s. 327.73(1).~~

Section 2. Effective July 1, 2023, subsection (4) is added to section 327.50, Florida Statutes, to read:

327.50 Vessel safety regulations; equipment and lighting requirements.—

(4) A vessel may not operate or be anchored on the waters of this state where visibility is limited by vegetation that extends 18 inches or higher above the current water line and is present within 10 feet on both sides of the vessel unless the vessel is equipped with a mast or flagpole bearing a flag at a height of at least 10 feet above the lowest portion of the vessel. The flag must meet design, minimum size, and color requirements as established by commission rule and be displayed so that the visibility of the flag is not obscured in any direction. This subsection does not apply to a vessel that has a height greater than 10 feet above the water line. A person who

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51 | violates this subsection commits a noncriminal infraction
52 | punishable as provided in s. 327.73(1).

53 | Section 3. This act shall take effect July 1, 2022.

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1 A bill to be entitled
2 An act relating to local regulation of vessels;
3 amending s. 327.60, F.S.; authorizing local
4 governments to regulate the anchoring of certain
5 vessels; providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Paragraph (f) of subsection (2) of section
10 327.60, Florida Statutes, is amended to read:

11 327.60 Local regulations; limitations.—

12 (2) This chapter and chapter 328 do not prevent the
13 adoption of any ordinance or local regulation relating to
14 operation of vessels, except that a county or municipality may
15 not enact, continue in effect, or enforce any ordinance or local
16 regulation:

17 (f) Regulating the anchoring of vessels outside the marked
18 boundaries of mooring fields permitted under ~~as provided in~~ s.
19 327.40. This paragraph does not apply to, except for:

- 20 1. Live-aboard vessels; ~~and~~
21 2. Commercial vessels, excluding commercial fishing
22 vessels; and
23 3. Vessels used for short-term rental purposes in
24 violation of a local ordinance or regulation;

25 Section 2. This act shall take effect July 1, 2022.

By Senator Ausley

3-00939A-22

20221454__

A bill to be entitled
An act relating to the Office of the Blue Economy;
amending s. 20.60, F.S.; establishing the office
within the Department of Economic Opportunity;
creating s. 288.93, F.S.; defining the term "blue
economy"; providing duties of the office; authorizing
the department to adopt rules; amending s. 403.928,
F.S.; conforming provisions to changes made by the
act; creating s. 403.9303, F.S.; requiring the Office
of Economic and Demographic Research to conduct a
biennial evaluation of the blue economy for inclusion
in a certain assessment; providing requirements for
the evaluation; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section
20.60, Florida Statutes, is amended to read:

20.60 Department of Economic Opportunity; creation; powers
and duties.—

(3)(a) The following divisions and offices of the
Department of Economic Opportunity are established:

1. The Division of Strategic Business Development.
2. The Division of Community Development.
3. The Division of Workforce Services.
4. The Division of Finance and Administration.
5. The Division of Information Technology.
6. The Office of the Secretary.
7. The Office of Economic Accountability and Transparency,

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which shall:

a. Oversee the department's critical objectives as determined by the secretary and make sure that the department's key objectives are clearly communicated to the public.

b. Organize department resources, expertise, data, and research to focus on and solve the complex economic challenges facing the state.

c. Provide leadership for the department's priority issues that require integration of policy, management, and critical objectives from multiple programs and organizations internal and external to the department; and organize and manage external communication on such priority issues.

d. Promote and facilitate key department initiatives to address priority economic issues and explore data and identify opportunities for innovative approaches to address such economic issues.

e. Promote strategic planning for the department.

8. The Office of the Blue Economy.

Section 2. Section 288.93, Florida Statutes, is created to read:

288.93 Office of the Blue Economy.—

(1) For purposes of this section, the term "blue economy" means the economic uses of ocean and coastal resources with a focus on sustainable practices that benefit the long-term outlook of relevant industry sectors and the competitive positioning of the state in a global economy affected by climate change, including, but not limited to, maritime industries such as shipyards, marinas, marine terminals, piers, fishing, aquaculture, seafood processing, commercial diving, and marine

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59 transportation; floating and amphibious housing; tourism; and
60 outdoor recreational activities, including, but not limited to,
61 boating, and industry sectors dependent on such activities.

62 (2) The Office of the Blue Economy shall:

63 (a) Support the state's economy by connecting the state's
64 ocean and coastal resources to economic development strategies
65 that enhance or contribute to the blue economy with a focus on
66 research and development, technological innovation, emerging
67 industries, strategic business recruitment, public and private
68 funding opportunities, and workforce training and education.

69 (b) Survey state universities and Florida College System
70 institutions on the development of academic research relating to
71 the blue economy across all disciplines. The office shall
72 encourage collaboration between state universities and Florida
73 College System institutions with overlapping areas of academic
74 research. The office shall publish on the department's website
75 information on such collaboration and the current research
76 inventory.

77 (c) Collaborate with relevant industries to identify
78 economic challenges that may be solved through innovation in the
79 blue economy by commercializing or otherwise providing public
80 access to academic research and resources.

81 (d) Develop and facilitate a pipeline of academic research,
82 commercialization, accelerator programs, and start-up funding.

83 (e) Publish on the department's website reports on the
84 number, growth, and average wages of jobs included in the blue
85 economy. Such reports shall identify and address any relevant
86 labor shortages projected by the Labor Market Estimating
87 Conference pursuant to s. 216.136(7).

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88 (f) Educate other state and local entities on the interests
89 of the blue economy by participating in the development and
90 implementation of policies relating to the state's use of ocean
91 and coastal resources, including, but not limited to, long-term
92 sustainability, best practices, conservation efforts, ocean and
93 coastal health, restoration and protection of coral reefs, and
94 beach renourishment.

95 (g) Communicate the state's role as an integral component
96 of the blue economy by promoting the state on national and
97 international platforms and other appropriate forums as the
98 premier destination for convening on pertinent subject matters.

99 (3) The department may adopt rules to administer this
100 section.

101 Section 3. Paragraph (f) is added to subsection (1) of
102 section 403.928, Florida Statutes, to read:

103 403.928 Assessment of water resources and conservation
104 lands.—The Office of Economic and Demographic Research shall
105 conduct an annual assessment of Florida's water resources and
106 conservation lands.

107 (1) WATER RESOURCES.—The assessment must include all of the
108 following:

109 (f) Biennially, beginning on January 1, 2023, the
110 evaluation of the state's blue economy required under s.
111 403.9303.

112 Section 4. Section 403.9303, Florida Statutes, is created
113 to read:

114 403.9303 Blue economy evaluation.—

115 (1) Beginning January 1, 2023, the Office of Economic and
116 Demographic Research shall conduct a biennial evaluation of the

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117 state's blue economy for inclusion in its annual assessment
118 conducted pursuant to s. 403.928.

119 (2) The evaluation must include the following:

120 (a) The historical and current contributions to the state's
121 economy from maritime industries, including, but not limited to:

122 1. Shipyards, marinas, marine terminals, piers, fishing,
123 aquaculture, seafood processing, commercial diving, and marine
124 transportation.

125 2. Floating and amphibious housing.

126 3. Tourism.

127 4. Outdoor recreational activities, including, but not
128 limited to, boating, and industry sectors dependent on such
129 activities.

130 (b) Appropriate economic comparisons to other states to
131 identify comparative advantages and disadvantages.

132 (c) The identification and discussion of any growing,
133 emerging, or new industries that fit within the blue economy
134 structure.

135 (d) Beginning January 1, 2025, an analysis of the
136 contributions of the blue economy to the state, including, but
137 not limited to, the economic benefits, as defined in s.
138 288.005(1), of the efforts undertaken by the Office of the Blue
139 Economy pursuant to s. 288.93.

140 Section 5. This act shall take effect July 1, 2022.

1 A bill to be entitled
2 An act relating to Office of the Blue Economy;
3 amending s. 20.60, F.S.; establishing the Office of
4 the Blue Economy within the Department of Economic
5 Opportunity; creating s. 288.93, F.S.; providing a
6 definition; providing duties of the Office of the Blue
7 Economy; authorizing the department to adopt rules;
8 amending s. 403.928, F.S.; conforming provisions to
9 changes made by the act; creating s. 403.9303, F.S.;
10 requiring the Office of Economic and Demographic
11 Research to conduct a biennial evaluation of the blue
12 economy for inclusion in a certain assessment;
13 providing requirements for the evaluation; providing
14 an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (a) of subsection (3) of section
19 20.60, Florida Statutes, is amended to read:

20 20.60 Department of Economic Opportunity; creation; powers
21 and duties.—

22 (3)(a) The following divisions and offices of the
23 Department of Economic Opportunity are established:

- 24 1. The Division of Strategic Business Development.
25 2. The Division of Community Development.

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26 3. The Division of Workforce Services.
27 4. The Division of Finance and Administration.
28 5. The Division of Information Technology.
29 6. The Office of the Secretary.
30 7. The Office of Economic Accountability and Transparency,
31 which shall:

32 a. Oversee the department's critical objectives as
33 determined by the secretary and make sure that the department's
34 key objectives are clearly communicated to the public.

35 b. Organize department resources, expertise, data, and
36 research to focus on and solve the complex economic challenges
37 facing the state.

38 c. Provide leadership for the department's priority issues
39 that require integration of policy, management, and critical
40 objectives from multiple programs and organizations internal and
41 external to the department; and organize and manage external
42 communication on such priority issues.

43 d. Promote and facilitate key department initiatives to
44 address priority economic issues and explore data and identify
45 opportunities for innovative approaches to address such economic
46 issues.

47 e. Promote strategic planning for the department.

48 8. The Office of the Blue Economy.

49 Section 2. Section 288.93, Florida Statutes, is created to
50 read:

51 288.93 Office of the Blue Economy.—

52 (1) For purposes of this section, the term "blue economy"
53 means the economic uses of ocean and coastal resources with a
54 focus on sustainable practices that benefit the long-term
55 outlook of relevant industry sectors and the competitive
56 positioning of the state in a global economy affected by climate
57 change, including, but not limited to, maritime industries such
58 as shipyards, marinas, marine terminals, piers, fishing,
59 aquaculture, seafood processing, commercial diving, and marine
60 transportation; floating and amphibious housing; tourism; and
61 outdoor recreational activities, including, but not limited to,
62 boating, and industry sectors dependent on such activities.

63 (2) The Office of the Blue Economy shall:

64 (a) Support the state's economy by connecting the state's
65 ocean and coastal resources to economic development strategies
66 that enhance or contribute to the blue economy with a focus on
67 research and development, technological innovation, emerging
68 industries, strategic business recruitment, public and private
69 funding opportunities, and workforce training and education.

70 (b) Survey state universities and Florida College System
71 institutions on the development of academic research relating to
72 the blue economy across all disciplines. The office shall
73 encourage collaboration between state universities and Florida
74 College System institutions with overlapping areas of academic
75 research. The office shall publish on the department's website

76 information on such collaboration and the current research
77 inventory.

78 (c) Collaborate with relevant industries to identify
79 economic challenges that may be solved through innovation in the
80 blue economy by commercializing or otherwise providing public
81 access to academic research and resources.

82 (d) Develop and facilitate a pipeline of academic
83 research, commercialization, accelerator programs, and startup
84 funding.

85 (e) Publish on the department's website reports on the
86 number, growth, and average wages of jobs included in the blue
87 economy. Such reports shall identify and address any relevant
88 labor shortages projected by the Labor Market Estimating
89 Conference pursuant to s. 216.136(7).

90 (f) Educate other state and local entities on the
91 interests of the blue economy by participating in the
92 development and implementation of policies relating to the
93 state's use of ocean and coastal resources, including, but not
94 limited to, long-term sustainability, best practices,
95 conservation efforts, ocean and coastal health, restoration and
96 protection of coral reefs, and beach renourishment.

97 (g) Communicate the state's role as an integral component
98 of the blue economy by promoting the state on national and
99 international platforms and other appropriate forums as the
100 premier destination for convening on pertinent subject matters.

101 (3) The department may adopt rules to administer this
102 section.

103 Section 3. Paragraph (f) is added to subsection (1) of
104 section 403.928, Florida Statutes, to read:

105 403.928 Assessment of water resources and conservation
106 lands.—The Office of Economic and Demographic Research shall
107 conduct an annual assessment of Florida's water resources and
108 conservation lands.

109 (1) WATER RESOURCES.—The assessment must include all of
110 the following:

111 (f) Biennially, beginning on January 1, 2023, the
112 evaluation of the state's blue economy required under s.
113 403.9303.

114 Section 4. Section 403.9303, Florida Statutes, is created
115 to read:

116 403.9303 Blue economy evaluation.—

117 (1) Beginning January 1, 2023, the Office of Economic and
118 Demographic Research shall conduct a biennial evaluation of the
119 state's blue economy for inclusion in its annual assessment
120 conducted pursuant to s. 403.928.

121 (2) The evaluation must include the following:

122 (a) The historical and current contributions to the
123 state's economy from maritime industries, including, but not
124 limited to:

125 1. Shipyards, marinas, marine terminals, piers, fishing,

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aquaculture, seafood processing, commercial diving, and marine transportation.

2. Floating and amphibious housing.

3. Tourism.

4. Outdoor recreational activities, including, but not limited to, boating, and industry sectors dependent on such activities.

(b) Appropriate economic comparisons to other states to identify comparative advantages and disadvantages.

(c) The identification and discussion of any growing, emerging, or new industries that fit within the blue economy structure.

(d) Beginning January 1, 2025, an analysis of the contributions of the blue economy to the state, including, but not limited to, the economic benefits, as defined in s. 288.005(1), of the efforts undertaken by the Office of the Blue Economy pursuant to s. 288.93.

Section 5. This act shall take effect July 1, 2022.



MIAF Bill Tracking

Ordered by Bill Number

HB 0047	Fraudulent Proof of Vaccination by Grieco
	Fraudulent Proof of Vaccination: Prohibits specified actions involving fraudulent proof of vaccination. Effective Date: October 1, 2022
	Actions
	01/05/2022 HOUSE Withdrawn prior to introduction
HB 0075	Limiting COVID-19 Restrictions by Sabatini
	Limiting COVID-19 Restrictions: Prohibits state or any political subdivision from enacting mask mandate; provides any such mandate is void; prohibits state & local governments from requiring COVID-19 vaccinations, issuing vaccine passports or other standardized documentation to third parties, or otherwise publishing or sharing COVID-19 vaccination records; prohibits businesses from requiring customers to provide documentation certifying COVID-19 vaccination or COVID-19 post-transmission recovery or discriminating against customers on basis of their COVID-19 vaccination status or COVID-19 post-transmission recovery status; declares certain actions based on vaccination status or having immunity passport are unlawful discriminatory practices. Effective Date: upon becoming a law
	Actions
	09/17/2021 HOUSE Now in Pandemics & Public Emergencies Committee
SB 0100	Joint Resolution of Apportionment by Rodrigues (R)
	Joint Resolution of Apportionment; Providing for the apportionment of the House of Representatives and the Senate (plans _____ and S027S8058); adopting the United States Decennial Census of 2020 for use in such apportionment; providing for the inclusion of omitted areas; providing contiguity for areas specified for inclusion in one district which are noncontiguous; specifying that the apportioned districts constitute the legislative districts of the state; specifying that electronic maps serve as the official maps of the legislative districts of the state; providing for the public availability of electronic maps, etc.
	Actions
	01/19/2022 SENATE Read Second Time; Amendment Withdrawn (603792); Placed on Third Reading, 01/20/22
HB 0117	Communicable and Infectious Diseases by Fetterhoff
	Communicable and Infectious Diseases: Provides presumption to specified workers that impairment of health caused by COVID-19 or infectious disease happened in line of duty; requires certain actions in order to be entitled to presumption; requires emergency rescue or public safety workers to file incident or accident report under certain conditions. Effective Date: upon becoming a law
	Actions
	09/29/2021 HOUSE Now in Government Operations Subcommittee
HB 0119	Appeals by Property Appraisers by Borrero
	Appeals by Property Appraisers: Revises upward percent variance that must exist for property appraiser to appeal value adjustment board assessment of property value. Effective Date: July 1, 2022
	Actions
	10/19/2021 HOUSE Withdrawn prior to introduction
SB 0152	Supermajority Vote for Legislative Preemption by Farmer, Jr.

Supermajority Vote for Legislative Preemption; Proposing amendments to the State Constitution to require a supermajority vote of each house to approve a general law preempting a subject of legislation to the state, etc.

Actions

09/21/2021 SENATE Referred to Community Affairs; Judiciary; Rules

SB 0198 Water Resources Management by Rodriguez (A)

Water Resources Management; Authorizing the Board of Trustees of the Internal Improvement Trust Fund to grant easements on sovereignty submerged lands for specified mitigation banks under certain conditions; exempting certain docks on recorded easements from certain permit and verification requirements; requiring authorization for certain docks to use submerged lands upon approval of the board; providing that the compliance of certain structures associated with a dock on a parcel of land with certain provisions creates a presumption of compliance with certain environmental impact requirements, etc. Effective Date: Upon becoming a law

Actions

01/19/2022 SENATE Committee Substitute Text (C1) Filed

HB 0233 Acceptance of Cash Payments by Businesses by Willhite

Acceptance of Cash Payments by Businesses: Requires certain businesses to accept cash payments for services; prohibits fees or conditions for such transactions; provides exceptions, penalties, & rulemaking authority. Effective Date: July 1, 2022

Actions

10/22/2021 HOUSE Now in Insurance & Banking Subcommittee

SB 0238 Endangered and Threatened Species by Jones

Endangered and Threatened Species; Directing the Fish and Wildlife Conservation Commission to protect certain endangered or threatened species, regardless of the status of their federal classification; prohibiting the commission from considering certain costs when designating a species as endangered or threatened; directing the department, in consultation with the Endangered Plant Advisory Council, to protect certain endangered or threatened species, regardless of the status of their federal classification; prohibiting the department from considering certain costs when designating a species as endangered or threatened, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

SB 0258 Racing Motor Vehicles by Book

Racing Motor Vehicles; Revising prohibitions on persons driving motor vehicles in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed, a stunt, agility, or acceleration or for other specified purposes on any highway, roadway, or parking lot; prohibiting a person from coordinating via social media any such race, competition, contest, test, or exhibition; prohibiting a person from operating a vehicle for the purpose of filming or recording activities of participants in any such race, competition, contest, test, or exhibition, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Transportation; Criminal Justice; Rules

SB 0280 Local Ordinances by Hutson

Local Ordinances; Authorizing courts to assess and award reasonable attorney fees and costs and damages in certain civil actions filed against local governments; requiring a board of county commissioners to prepare a business impact estimate before the enactment of a proposed ordinance; requiring a governing body of a municipality to prepare a business impact estimate before the enactment of a proposed ordinance, etc. Effective Date: 10/1/2022

Actions

01/14/2022 SENATE On Committee agenda - Rules, 01/20/22, 9:30 am, 412 K

SB 0284 Fraudulent Proof of Vaccination by Polsky

Fraudulent Proof of Vaccination; Prohibiting specified actions involving fraudulent proof of vaccination; providing criminal penalties, etc. Effective Date: 10/1/2022

Actions

01/11/2022 SENATE Temporarily Postponed by Criminal Justice

HB 0291 Employee Leave and Wage and Salary History by Woodson

Employee Leave and Wage and Salary History: Authorizes parental leave for state employees in Career Service System who have stillborn child; prohibits public employer, employment agency, or private employer from engaging in certain activities relating to wages & salary; authorizes public employer, employment agency, or private employer to confirm prospective employee's wage or salary history under certain conditions. Effective Date: July 1, 2022

Actions

01/07/2022 HOUSE Withdrawn prior to introduction

HB 0293 Discrimination in Labor and Employment by Thompson

Discrimination in Labor and Employment: Prohibits employer from providing less favorable employment opportunities to employees based on their sex; provides civil penalties; prohibits employer from taking employment actions against employees; prohibits employer from engaging in certain activities relating to wages & benefits; prohibits employer from requiring employees to sign certain waivers & documents; authorizes employer to confirm wage or salary history under certain conditions. Effective Date: July 1, 2022

Actions

10/26/2021 HOUSE Now in Regulatory Reform Subcommittee

HB 0299 Social Media Platforms by Sabatini

Social Media Platforms: Provides requirements for social media platforms relating to acceptable use policies, quarterly transparency reports, & complaint system; authorizes AG to bring action against social media platforms & to recover certain costs. Effective Date: July 1, 2022

Actions

10/26/2021 HOUSE Now in Regulatory Reform Subcommittee

SB 0322 Discrimination in Labor and Employment by Stewart

Discrimination in Labor and Employment; Creating the "Senator Helen Gordon Davis Fair Pay Protection Act"; prohibiting an employer from providing less favorable employment opportunities to employees based on their sex; providing exceptions; prohibiting an employer from engaging in certain activities relating to wages and benefits, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Commerce and Tourism; Judiciary; Rules

HB 0323 Fish and Wildlife Conservation Commission by Sirois

Fish and Wildlife Conservation Commission: Requires certain forms relating to boating under influence be provided by FWCC rather than DHSMV; authorizes certain athletic teams & sports to operate human-powered vessel within specified waterway; revises authorized conditions for determining vessels at risk of becoming derelict; prohibits municipalities & counties from designating public bathing beach & swim areas within specified waterway; repeals provisions relating to derelict vessels & relocation & removal of such vessels; authorizes FWCC to provide derelict vessel grants to local governments; requires FWCC to adopt rules; authorizes FWCC employees & Florida Forest Service to operate drones for specified purposes. Effective Date: July 1, 2022

Actions

12/07/2021 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

HB 0349 Water Resources Management by Sirois

Water Resources Management: Authorizes Board of Trustees of Internal Improvement Trust Fund to grant easements on sovereignty submerged lands for specified mitigation banks; directs DEP to create & modify specified rules; exempts certain docks on recorded easements from certain permit & verification requirements; granting certain docks authorization to use submerged lands upon approval of board; provides that specified structures associated with docks create presumption of specified compliance. Effective Date: upon becoming a law

Actions

12/08/2021 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

HB 0359 Agreement For Best Practices in Economic Development by Eskamani

Agreement For Best Practices in Economic Development: Creates Agreement For Best Practices in Economic Development; specifies membership of board; requires board to publish specified material regarding best practices in economic development; requires board to suggest annual revisions; requires board to accept testimony related to economic development improvements; prohibits member states from providing company-specific tax incentives for specified purposes; providing procedures for withdrawing from agreement. Effective Date: upon the adoption of the agreement by two or more states

Actions

11/05/2021 HOUSE Now in Tourism, Infrastructure & Energy Subcommittee

SB 0376 Employment Protections by Book

Employment Protections; Authorizing parental leave for state employees in the Career Service System who have a stillborn child; prohibiting a public employer or an employment agency from engaging in certain activities relating to wages and salary; prohibiting an employer from engaging in certain activities relating to wages and salary; authorizing an employer to confirm a prospective employee's wage or salary history under certain conditions, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Governmental Oversight and Accountability; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

SB 0380 Greenhouse Gas Emissions by Rodriguez (A)

Greenhouse Gas Emissions; Defining the term "greenhouse gas"; prohibiting the adoption or enforcement of certain state and regional programs to regulate greenhouse gas emissions without specific legislative authorization, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Environment and Natural Resources; Governmental Oversight and Accountability; Rules

SB 0382 Minimum Training Wage by Brandes

Minimum Training Wage; Proposing an amendment to the State Constitution to authorize the Legislature to establish a minimum training wage rate lower than the Florida minimum wage rate which employers may elect to pay employees for the first 6 months of employment, etc.

Actions

10/13/2021 SENATE Referred to Commerce and Tourism; Appropriations; Rules

HB 0383 Criminal Conflict and Civil Regional Counsels by Maney

Criminal Conflict and Civil Regional Counsels: Specifies responsibilities of regional counsels regarding witness coordination; removes requirement that regional counsel employees be governed by JAC classification & salary & benefits plans; modifying procedures for Supreme Court Judicial Nominating

Commission in nominating candidates for regional counsel positions; revises provisions related to duties of regional counsels. Effective Date: July 1, 2022

Actions

12/03/2021 HOUSE Now in Appropriations Committee

HB 0385 Pub. Rec./Criminal Conflict and Civil Regional Counsel Offices by Maney

Pub. Rec./Criminal Conflict and Civil Regional Counsel Offices: Expands public records exemption to include all records pertaining to registration application submitted by any criminal conflict & civil regional counsel office; provides for future legislative review & repeal; provides statement of public necessity. Effective Date: on the same date that HB 383 or similar legislation takes effect

Actions

12/02/2021 HOUSE Now in Government Operations Subcommittee

HB 0393 Public Bathing Places by Hinson

Public Bathing Places: Revises definition of term "public bathing place"; requires, rather than authorizes, DOH to adopt & enforce certain rules & to issue health advisories under certain circumstances; requires DOH to notify municipality or county if health advisory is issued against swimming in public bathing places; requires certain signage to be posted around public bathing places under certain circumstances; requires DOH to monitor affected public bathing places; authorizes DOH to coordinate with DEP & FWCC to implement signage requirements. Effective Date: July 1, 2022

Actions

11/05/2021 HOUSE Now in Professions & Public Health Subcommittee

HB 0399 Motor Vehicle and Vessel Law Enforcement by Rodriguez (Ant)

Motor Vehicle and Vessel Law Enforcement: Revises prohibitions on persons driving motor vehicles in any race or test of acceleration or for other specified purposes on highway, roadway, or parking lot; prohibits persons from performing certain actions relating to any such race or test; provides criminal penalties for unlawful use of certain lights; includes such unlawful use in commission of offense of false personation. Effective Date: July 1, 2022

Actions

11/05/2021 HOUSE Now in Criminal Justice & Public Safety Subcommittee

SB 0408 Acceptance of Cash Payments by Businesses by Jones

Acceptance of Cash Payments by Businesses; Requiring certain businesses to accept cash payments for certain transactions; prohibiting such businesses from charging a fee or placing conditions on acceptance of such cash payments; providing penalties for violations of the act, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Commerce and Tourism; Banking and Insurance; Rules

HB 0421 Long-term Cleanup of Water Bodies by Truenow

Long-term Cleanup of Water Bodies: Directs DEP to procure specified technology for the purpose of long-term clean up of water bodies. Effective Date: July 1, 2022

Actions

11/05/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

SB 0434 Florida Tourism Marketing by Hooper

Florida Tourism Marketing; Delaying the scheduled repeal of provisions governing the Florida Tourism Industry Marketing Corporation and the Division of Tourism Marketing of Enterprise Florida, Inc., respectively, etc. Effective Date: Upon becoming a law

Actions

SB 0446 Wage and Employment Benefits Requirements by Taddeo

Wage and Employment Benefits Requirements; Repealing a provision relating to restrictions on the establishment of minimum wage and employment benefits requirements by political subdivisions, etc. Effective Date: 7/1/2022

Actions

10/21/2021 SENATE Referred to Commerce and Tourism; Community Affairs; Rules

HB 0449 Land Acquisition Trust Fund by Mooney, Jr.

Land Acquisition Trust Fund: Provides annual appropriation to DEP to implement Florida Keys Stewardship Act by entering into financial assistance agreements with specified local governments for specified purposes; prohibits use of such funds to implement certain projects & programs. Effective Date: July 1, 2022

Actions

11/10/2021 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

SB 0452 Public Health by Perry

Public Health; Prohibiting counties and municipalities from requiring citizens of the United States to submit to any medical procedure or receive any medical treatment; prohibiting counties and municipalities from conditioning access to public property or services on whether a citizen has submitted to any medical procedure or received any medical treatment; prohibiting counties and municipalities from requiring the wearing of a face covering; prohibiting district school boards from adopting, implementing, or enforcing a policy, a rule, a code of conduct, or an order requiring the wearing of a face covering, etc. Effective Date: 7/1/2022

Actions

10/21/2021 SENATE Withdrawn prior to introduction

HB 0463 Greenhouse Gas Emissions by Botana

Greenhouse Gas Emissions: Prohibits adoption or enforcement of certain state & regional programs to regulate greenhouse gas emissions without specific legislative authorization. Effective Date: July 1, 2022

Actions

11/10/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 0489 Tourism Marketing by Chaney

Tourism Marketing: Revises scheduled repeal date of Florida Tourism Industry Marketing Corporation; revises scheduled repeal date of Division of Tourism Marketing within Enterprise Florida, Inc. Effective Date: upon becoming a law

Actions

01/18/2022 HOUSE Now in Commerce Committee

HB 0493 Boating Safety by Botana

Boating Safety: Revises provisions relating to boating collisions & accidents; liveries & livery permits; boating safety education courses; vessel registrations & title transfers; & related rules, fees, fines, & penalties; provides appropriation & positions for FWCC Illegal Boating Strike Team. Effective Date: July 1, 2022

Actions

11/19/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

SB 0494 Fish and Wildlife Conservation Commission by Hutson

Fish and Wildlife Conservation Commission; Revising the notices a person must be given for failure to submit to certain tests for alcohol, chemical substances, or controlled substances; authorizing certain athletic teams or sports affiliated with specified educational institutions to operate a human-powered vessel within the marked channel of the Florida Intracoastal Waterway; revising the vessel conditions that an officer of the Fish and Wildlife Conservation Commission or a law enforcement agency may use to determine that a vessel is at risk of becoming derelict; prohibiting municipalities and counties from designating public bathing beach areas or swim areas within their jurisdictions which are within the marked channel portion of the Florida Intracoastal Waterway or within a specified distance from any portion of the marked channel; providing that all employees of the commission or the Florida Forest Service may operate drones for specified purposes, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022

Actions

01/14/2022 SENATE Now in Appropriations

HB 0501 Prohibition of Public Funds for Lobbying by Gregory

Prohibition of Public Funds for Lobbying: Prohibits local governments and not-for-profit organizations from using public funds to retain lobbyists; provides exceptions for local government full-time employees; provides sanctions for violations; authorizes people to file complaints with the Commission on Ethics; requires commission to provide a report to specified entities; specifies procedures for disciplining violators. Effective Date: July 1, 2022

Actions

01/07/2022 HOUSE Withdrawn prior to introduction

HB 0513 Comprehensive Review Study of the Central and Southern Florida Project by Bartleman

Comprehensive Review Study of the Central and Southern Florida Project: Directs SFWMD to prepare & submit consolidated annual report regarding status of project to Office of Economic & Demographic Research, DEP, Governor, & Legislature; provides report requirements. Effective Date: July 1, 2022

Actions

01/12/2022 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

HB 0529 Yacht and Ship Brokers' Act by LaMarca

Yacht and Ship Brokers' Act: Provides visiting broker is not required to be licensed under certain circumstances; requires DBPR to deny license to applicant under certain circumstances; requires person to demonstrate that he or she has been directly involved in specified number of transactions or certify that he or she has completed specified number of continuing education units to be licensed as broker; requires division to create & publish complaint form; provides disciplinary actions against licensed broker or salesperson. Effective Date: October 1, 2022

Actions

11/19/2021 HOUSE Now in Regulatory Reform Subcommittee

SB 0536 Administrative Procedures by Diaz

Administrative Procedures; Applying certain provisions applicable to all rules other than emergency rules to repromulgated rules; requiring an agency to provide notice of a regulatory alternative to the Administrative Procedures Committee within a certain timeframe; requiring an agency to provide a copy of any proposal for a lower cost regulatory alternative to the committee within a certain timeframe; requiring agency review of rules and repromulgation of rules that do not require substantive changes within a specified timeframe; requiring an agency to identify and describe each rule it plans to develop, adopt, or repeal during the forthcoming year in the agency's annual regulatory plan, etc. Effective Date: 7/1/2022

Actions

01/19/2022 SENATE On Committee agenda - Judiciary, 01/24/22, 3:00 pm, 412 K

SB 0550 Unlawful Employment Practices by Cruz

Unlawful Employment Practices; Revising the unlawful employment practices in the Florida Civil Rights Act of 1992 to include discriminatory practices relating to military status, etc. Effective Date: 7/1/2022

Actions

11/03/2021 SENATE Referred to Commerce and Tourism; Judiciary; Rules

HB 0561

Implementation of the Recommendations of the Blue-Green Algae Task Force by Goff-Marcil

Implementation of the Recommendations of the Blue-Green Algae Task Force: Requires owners of certain onsite sewage treatment & disposal systems to have systems periodically inspected; directs DEP to administer inspection program & implement program standards, procedures, & requirements; requires basin management action plans to include specified information; directs DEP to assess specified projects. Effective Date: July 1, 2022

Actions

11/19/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 0579

Aquatic Plant Management by Melo

Aquatic Plant Management: Directs FWCC, in consultation with UF/IFAS & FGCU/Water School, to implement & study nutrient removal technologies & mechanical aquatic plant management techniques within Lake Okeechobee watershed; authorizes FWCC to consult & contract with entities for implementation & study; directs FWCC to submit report to Governor & Legislature; provides appropriation. Effective Date: July 1, 2022

Actions

12/06/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 0585

Caloosahatchee River Watershed by Botana

Caloosahatchee River Watershed: Removes requirement for entities disposing of septage within Caloosahatchee River watershed to develop & submit specified agricultural use plan to DOH; prohibits land application of septage from onsite sewage treatment disposal & systems within Caloosahatchee River watershed; directs DEP to adopt updated Caloosahatchee estuary basin management action plan; provides plan requirements; prohibits specified activities within Caloosahatchee River watershed. Effective Date: July 1, 2022

Actions

12/06/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

SB 0592

Face Covering Mandates by Perry

Face Covering Mandates; Prohibiting counties and municipalities from requiring that a citizen of the United States wear a face covering; prohibiting district school boards from adopting, implementing, or enforcing a policy, a rule, a code of conduct, or an order requiring the wearing of a face covering; prohibiting a district school superintendent from implementing or enforcing a policy, a rule, a code of conduct, or an order requiring the wearing of a face covering; prohibiting a school principal from implementing or enforcing a policy, a rule, a code of conduct, or an order requiring the wearing of a face covering, etc. Effective Date: Upon becoming a law

Actions

11/03/2021 SENATE Referred to Judiciary; Education; Rules

SB 0594

Discrimination on the Basis of COVID-19 Vaccination or Postinfection Recovery Status by Perry

Discrimination on the Basis of COVID-19 Vaccination or Postinfection Recovery Status; Prohibiting governmental entities from requiring proof of COVID-19 vaccination or postinfection recovery status as a condition of licensure or certification in this state; prohibiting employers from requiring COVID-19 vaccination or proof of COVID-19 vaccination or postinfection recovery as a condition of employment, promotion, or continued employment or from discriminating against employees on the basis of such status unless certain conditions are met; providing a right of action for aggrieved persons, etc. Effective Date: Upon becoming a law

Actions

11/03/2021 SENATE Referred to Community Affairs; Commerce and Tourism; Rules

SB 0596 Criminal Conflict and Civil Regional Councils by Baxley

Criminal Conflict and Civil Regional Councils; Specifying the responsibilities of regional councils regarding witness coordination; removing the requirement that regional council employees be governed by Justice Administrative Commission classification and salary and benefits plans; authorizing regional councils to access certain confidential information relating to proceedings involving children under specified circumstances; authorizing regional council offices to obtain fictitious names for motor vehicle and vessel plates or decals, etc. Effective Date: 7/1/2022

Actions

01/19/2022 SENATE Now in Appropriations

SB 0598 Public Records/Criminal Conflict and Civil Regional Counsel Office by Baxley

Public Records/Criminal Conflict and Civil Regional Counsel Office; Expanding a public records exemption to include all records pertaining to a registration application submitted by any criminal conflict and civil regional counsel office for a registration certificate and registration license plate or decal issued under a fictitious name; providing for future legislative review and repeal; providing a statement of public necessity, etc. Effective Date: On the same date that SB 596 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law

Actions

01/19/2022 SENATE Now in Appropriations

SB 0602 Land Acquisition Trust Fund by Rodriguez (A)

Land Acquisition Trust Fund; Requiring an annual appropriation from the Land Acquisition Trust Fund to the Department of Environmental Protection to implement the Florida Keys Stewardship Act or to acquire land within the Florida Keys Area of Critical State Concern for specified purposes; prohibiting the department from using the appropriated funds to implement wastewater management projects or programs, etc. Effective Date: 7/1/2022

Actions

11/03/2021 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 0603 Land Acquisition Trust Fund by Bell

Land Acquisition Trust Fund: Provides annual appropriation to DEP to implement Heartland Headwaters Protection & Sustainability Act; requires funds to be used & distributed for specified purposes. Effective Date: July 1, 2022

Actions

12/06/2021 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

SB 0604 Safe Waterways Act by Berman

Safe Waterways Act; Revising the definition of the term "public bathing place"; requiring, rather than authorizing, the Department of Health to adopt and enforce certain rules; requiring, rather than authorizing, the department to issue health advisories under certain circumstances; requiring the department to notify a municipality or county if the department issues a health advisory against swimming on the basis of elevated bacteria levels in a public bathing place within the municipality's or county's jurisdiction; requiring the municipality or county to post certain signage around public bathing places that have elevated levels of specified bacteria, etc. Effective Date: 7/1/2022

Actions

11/03/2021 SENATE Referred to Environment and Natural Resources; Community Affairs; Appropriations

SB 0606 Boating Safety by Garcia

Boating Safety; Citing this act as the "Boating Safety Act of 2022"; authorizing a court to impose a specified fine for certain boating collisions and accidents; prohibiting liveries, beginning on a specified date, from offering a vessel for lease or rent without a livery permit; revising the conditions under which a livery may not knowingly lease or rent a vessel; increasing fines for violations of certain boating regulations; providing that an improper transfer of vessel title is subject to a civil penalty, etc. APPROPRIATION: \$2,225,000 Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022

Actions

11/30/2021 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

SB 0612 Apprenticeship Contracts by Hutson

Apprenticeship Contracts; Authorizing an apprentice to enter into a contract with a business organization for a specified duration; requiring such contracts to be signed by specified individuals, etc. Effective Date: 7/1/2022

Actions

11/03/2021 SENATE Referred to Commerce and Tourism; Regulated Industries; Rules

SB 0620 Local Government by Hutson

Local Government; Authorizing certain businesses to claim business damages from a county or municipality if the county or municipality enacts or amends certain ordinances or charter provisions; authorizing businesses to recover costs and fees in a specified manner and if certain requirements are met; requiring courts to consider certain factors and follow specified guidance when assessing costs; specifying requirements for the courts in determining and awarding attorney fees; requiring attorneys and businesses to submit certain documentation relating to attorney fees, etc. Effective Date: 7/1/2022

Actions

01/14/2022 SENATE On Committee agenda - Appropriations, 01/20/22, 11:30 am, 412 K

HB 0627 Employment Practices for Family and Medical Leave by Nixon

Employment Practices for Family and Medical Leave: Creates "Florida Family & Medical Leave Act"; requires employer to allow employees to take paid family leave to bond with minor child upon birth, adoption, or foster care placement; provides for civil action & penalties; creates family & medical leave insurance benefits program; prohibits specified employment practices on basis of pregnancy, childbirth, or medical condition related to pregnancy or childbirth; provides for leave, maintenance of health coverage, reasonable accommodation & transfer, & return rights for employee who is disabled from pregnancy, childbirth, or medical condition related to pregnancy or childbirth. Effective Date: July 1, 2022

Actions

12/06/2021 HOUSE Now in Regulatory Reform Subcommittee

HB 0629 Trust Funds/Family and Medical Leave Insurance Benefits Fund/DFS by Nixon

Trust Funds/Family and Medical Leave Insurance Benefits Fund/DFS: Creates Family & Medical Leave Insurance Benefits Fund under DFS; provides purpose of trust fund; provides for future review & termination of trust fund. Effective Date: on the same date that HB 627 or similar legislation takes effect

Actions

12/06/2021 HOUSE Now in Regulatory Reform Subcommittee

SB 0656 Family and Medical Leave Insurance Benefits Fund by Cruz

Family and Medical Leave Insurance Benefits Fund; Creating the Family and Medical Leave Insurance Benefits Fund under the Department of Financial Services; providing the purpose of the trust fund; providing for future review and termination of the trust fund, etc. Effective Date: On the same date that SB 688 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law

Actions

11/16/2021 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 0683

Recreational Licenses and Permits for Military Servicemembers and Veterans by Willhite

Recreational Licenses and Permits for Military Servicemembers and Veterans: Provides free & discounted hunting, freshwater fishing, & saltwater fishing licenses & permits to certain military servicemembers & veterans. Effective Date: July 1, 2022

Actions

01/12/2022 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 01/14/22, 1:30 pm, 117 K (No Votes Will Be Taken)

SB 0688

Employment Practices for Family and Medical Leave by Cruz

Employment Practices for Family and Medical Leave; Creating the "Florida Family and Medical Leave Act"; requiring an employer to allow certain employees to take family and medical leave to bond with a minor child upon the child's birth, adoption, or foster care placement; prohibiting an employer from taking adverse action against an employee who requests or obtains family and medical leave; requiring that family and medical leave be taken concurrently with any leave taken under federal family and medical leave law; requiring the Department of Economic Opportunity to create a model notice that specifies an employee's rights related to family and medical leave and family and medical leave insurance benefits, etc. Effective Date: 7/1/2022

Actions

11/16/2021 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

SB 0690

Resilience-related Advisory Committees by Rodriguez (A)

Resilience-related Advisory Committees; Authorizing specified resilience-related advisory committees to conduct public meetings and workshops by means of communications media technology; providing that use of such technology by a committee member constitutes that member's presence at such meeting or workshop; requiring that such technology allow the public to audibly communicate, etc. Effective Date: Upon becoming a law

Actions

01/19/2022 SENATE Now in Environment and Natural Resources

HB 0691

Resilience-related Advisory Committees by Slosberg

Resilience-related Advisory Committees: Authorizes resilience-related advisory committees to conduct public meetings & workshops by means of communications media technology; provides that use of technology by committee member constitutes member's presence at meeting or workshop; provides notice requirements for public meetings or workshops conducted by means of communications media technology. Effective Date: upon becoming a law

Actions

12/13/2021 HOUSE Now in Government Operations Subcommittee

HB 0701

Boating and Vessel Safety by McFarland

Boating and Vessel Safety: Requires boating safety education courses & temporary certificate examinations to include specified components; directs FWCC to include such components in boating safety education campaigns & certain educational materials; requires instructors of water sports & activities to use engine cutoff switches & wear operative links to switches under certain conditions. Effective Date: July 1, 2022

Actions

01/19/2022 HOUSE Committee Substitute Text (C1) Filed

HB 0711	Endangered and Threatened Species by Diamond
Endangered and Threatened Species: Revises legislative intent of Florida Endangered & Threatened Species Act; directs FWCC & DACS to protect certain endangered or threatened species; revises criteria for placement of species on Regulated Plant Index by DACS; prohibits FWCC & DACS from considering certain costs when designating species as endangered or threatened. Effective Date: July 1, 2022	
Actions	
12/13/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee	
HB 0729	Everglades Protection Area by Aloupis, Jr.
Everglades Protection Area: Requires comprehensive plans & plan amendments that apply to certain lands within or near Everglades Protection Area to follow state coordinated review process; requires DEP to make determinations, consult, & coordinate with specified entities regarding such plans & amendments; provides additional limitation for compliance determination of such plans & plan amendments; prohibits & provides requirements for adoption of certain development amendments within Everglades Protection Area. Effective Date: July 1, 2022	
Actions	
12/13/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee	
SB 0732	Heat Illness Prevention by Rodriguez (A)
Heat Illness Prevention; Providing responsibilities for certain employers and employees; providing an exception; requiring employers to provide annual training for employees and supervisors; requiring the Department of Agriculture and Consumer Services, in conjunction with the Department of Health, to adopt specified rules, etc. Effective Date: 10/1/2022	
Actions	
01/19/2022 SENATE Favorable by Agriculture; 7 Yeas, 0 Nays	
HB 0761	Inventories of Critical Wetlands by Truenow
Inventories of Critical Wetlands: Requires each water management district governing board, in cooperation with local governments, to develop list of critical wetlands for acquisition using funds from Land Acquisition Trust Fund; requires boards to consider certain criteria when including wetlands on list. Effective Date: July 1, 2022	
Actions	
01/12/2022 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee	
SB 0786	Aircraft Sales and Lease Tax by Hutson
Aircraft Sales and Lease Tax; Exempting all aircraft sales and leases, rather than the sales and leases of certain aircraft, from the sales and use tax; defining the term "aircraft"; deleting the definition of the term "common carrier" to conform to changes made by the act, etc. Effective Date: 7/1/2022	
Actions	
01/14/2022 SENATE Now in Appropriations	
SB 0820	Yacht and Ship Brokers' Act by Hooper
Yacht and Ship Brokers' Act; Redefining the term "yacht" to include vessels longer than a specified length which are manufactured or operated primarily for pleasure or are leased, rented, or chartered for pleasure; exempting a person who conducts business as a broker or salesperson in another state from licensure for specified transactions; requiring, rather than authorizing, the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation to deny licenses for applicants who fail to meet certain requirements; requiring the division to take certain actions if the division determines that a broker or salesperson violated the act, etc. Effective Date: 10/1/2022	
Actions	

SB 0832 Implementation of the Recommendations of the Blue-Green Algae Task Force by Stewart

Implementation of the Recommendations of the Blue-Green Algae Task Force; Requiring owners of certain onsite sewage treatment and disposal systems to have the systems periodically inspected, beginning on a specified date; requiring the Department of Environmental Protection to administer the inspection program; requiring new or revised basin management action plans to include a list that identifies and prioritizes certain spatially focused projects, etc. Effective Date: 7/1/2022

Actions

01/11/2022 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

SB 0834 Long-term Cleanup of Harmful Algal Blooms by Brodeur

Long-term Cleanup of Harmful Algal Blooms; Citing this act as the "Implementation of Long-term Solutions for Cleaning Florida's Water Bodies Act"; requiring the Department of Environmental Protection to take certain actions to physically remove, reduce, clean up, and respond to harmful algal blooms; requiring the department to give preference to innovative technologies that meet certain standards, etc. Effective Date: 7/1/2022

Actions

11/30/2021 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

SB 0840 Residential Property Riparian Rights by Albritton

Residential Property Riparian Rights; Requiring land surveyors to give preference to using the prolongation-of-property-line method to establish a property owner's riparian rights along a channel under certain circumstances; requiring courts to award reasonable attorney fees and costs to a prevailing party in a civil action under certain circumstances, etc. Effective Date: Upon becoming a law

Actions

01/19/2022 SENATE On Committee agenda - Judiciary, 01/24/22, 3:00 pm, 412 K

HB 0841 Residential Property Riparian Rights by DiCeglie

Residential Property Riparian Rights: Requires land surveyors to give preference to using prolongation-of-property-line method to establish property owner's riparian rights along channel; requires courts to award reasonable attorney fees & costs to prevailing party in civil actions. Effective Date: upon becoming a law

Actions

12/16/2021 HOUSE Now in Civil Justice & Property Rights Subcommittee

HB 0853 Unlawful Employment Practices by Daley

Unlawful Employment Practices: Revises unlawful employment practices in Florida Civil Rights Act of 1992 to include discriminatory practices relating to military status. Effective Date: July 1, 2022

Actions

12/16/2021 HOUSE Now in Civil Justice & Property Rights Subcommittee

HB 0867 Towing, Storage, and Release of Motor Vehicles by Rizo

Towing, Storage, and Release of Motor Vehicles: Provides requirements for release of motor vehicle towed to investigating agency's storage facility; requires investigating agency to pay towing & storage charges to wrecker operator under certain circumstances; prohibits towing company from releasing motor vehicle owned by rental car company to person who rented vehicle unless person is appointed as agent of rental car company; provides requirements for evidence of such agency. Effective Date: July 1, 2022

Actions

SB 0882 Inventories of Critical Wetlands by Brodeur

Inventories of Critical Wetlands; Requiring each water management district governing board, in cooperation with local governments, to develop a list of critical wetlands for acquisition using funds from the Land Acquisition Trust Fund; requiring the boards to consider certain criteria when including wetlands on the list, etc. Effective Date: 7/1/2022

Actions

01/11/2022 SENATE Now in Community Affairs

HB 0887 Heat Illness Prevention in Outdoor Environment Industries by Chambliss

Heat Illness Prevention in Outdoor Environment Industries: Requires certain employers to provide drinking water, shade, & annual training to employees & supervisors; requires DACS, in conjunction with DOH, to adopt specified rules. Effective Date: October 1, 2022

Actions

01/03/2022 HOUSE Now in Regulatory Reform Subcommittee

SB 0908 Fees/Electric Vehicles and Plug-in Hybrid Electric Vehicles by Brandes

Fees/Electric Vehicles and Plug-in Hybrid Electric Vehicles; Imposing specified additional annual flat fees on electric vehicles; imposing a license tax and an additional annual flat fee on plug-in hybrid electric vehicles; authorizing persons and entities to biennially renew vehicle registrations for electric vehicles and plug-in hybrid electric vehicles; providing for the distribution of proceeds from the additional fees, etc. Effective Date: July 1, 2022, but only if SB 918 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law

Actions

11/30/2021 SENATE Referred to Transportation; Finance and Tax; Appropriations

SB 0918 Electric Vehicle Charging Infrastructure by Brandes

Electric Vehicle Charging Infrastructure; Revising a requirement for the Department of Transportation's goals relating to mobility; requiring that certain funds be used for specified purposes relating to the Electric Vehicle Infrastructure Grant Program, beginning in a specified fiscal year; requiring the department to establish the Electric Vehicle Infrastructure Grant Program; providing the purpose of the program; requiring the Department of Transportation to seek programmatic federal approval for the issuance of permits and for the accommodation as a utility of the installation of electric vehicle charging stations in highway rights-of-way, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022

Actions

11/30/2021 SENATE Referred to Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

HB 0921 Limitations on Political Contributions by Drake

Limitations on Political Contributions: Provides that foreign national may not make or offer to make certain contributions or expenditures. Effective Date: July 1, 2022

Actions

01/03/2022 HOUSE Now in Public Integrity & Elections Committee

SB 0932 Everglades Protection Area by Rodriguez (A)

Everglades Protection Area; Requiring comprehensive plans and plan amendments that apply to certain lands within or near the Everglades Protection Area to follow the state coordinated review process; requiring the Department of Environmental Protection, in consultation with specified entities, to make certain determinations for such plans and amendments, to provide written determinations to the local government and specified entities within a specified timeframe, and to coordinate with the local government and specified entities on certain planning strategies and mitigation measures; authorizing

site-specific text changes for small scale future land use map amendments; prohibiting the adoption of small scale development amendments for properties located within or near the Everglades Protection Area, etc. Effective Date: 7/1/2022

Actions

11/30/2021 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules

SB 0944 Online Marketplace Transparency by Baxley

Online Marketplace Transparency; Requiring online marketplaces to require high-volume third-party sellers using their service to provide certain information to the online marketplace within a specified timeframe; requiring the online marketplace to suspend certain sellers who do not provide such a certification or updated information; requiring online marketplaces to disclose certain information in a specified manner; preempting the regulation of the verification and disclosure of such information to the Department of Legal Affairs, etc. Effective Date: 7/1/2022

Actions

01/19/2022 SENATE Now in Community Affairs

HB 0949 Employment Accommodations for Family or Household Members of Homicide Victims by Chambliss

Employment Accommodations for Family or Household Members of Homicide Victims: Requires that employer grant certain leave upon request of employee; provides requirements for such leave; requires employee to provide advance notice & certain documentation to his or her employer except; requires confidentiality; prohibits employer from taking certain actions relating to exercise of certain rights; provides remedies. Effective Date: July 1, 2022

Actions

01/07/2022 HOUSE Now in Regulatory Reform Subcommittee

SB 0952 Taxation by Gruters

Taxation; Exempting federal loans related to a state of emergency from the excise tax imposed on documents; increasing the combined total amount of credits which may be granted to business enterprises during any calendar year, etc.

Actions

11/30/2021 SENATE Referred to Military and Veterans Affairs, Space, and Domestic Security; Finance and Tax; Appropriations

HB 0965 Environmental Management by Truenow

Environmental Management: Provides for water quality enhancement areas, enhancement service areas, & enhancement credits; directs DEP & water management districts to authorize sale & use of enhancement credits to offset adverse water quality impacts & to meet water quality requirements; directs DEP to maintain specified ledgers; authorizes DEP to enter into agreements & contracts with public & private entities for donations, funds, & payments to expedite evaluation of environmental resource & dredge & fill permits; requires DEP to make such agreements & contracts publicly available; provides appropriation & authorizes FTE positions. Effective Date: July 1, 2022

Actions

01/07/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

SB 0990 Towing Vehicles by Diaz

Towing Vehicles; Prohibiting investigating agencies from releasing motor vehicles towed to an agency's storage facility until certain proof of payment is presented to the agency; specifying that investigating agencies that do not obtain proof of payment must pay certain charges within a specified timeframe; prohibiting towing companies from releasing vehicles owned by rental car companies which are towed under certain circumstances, to the person who rented the vehicle unless the rental car company appoints the person as its agent, etc. Effective Date: 7/1/2022

Actions

HB 1019 Saltwater Intrusion Vulnerability Assessments by Duggan

Saltwater Intrusion Vulnerability Assessments: Requires coastal counties to conduct vulnerability assessments analyzing effects of saltwater intrusion on water supplies & preparedness to respond to threats & provide copies to DEP & water management districts; requires water management districts to submit certain projects to DEP; requires DEP to update comprehensive statewide flood vulnerability & sea level rise data, make certain information available online, & provide cost-share funding to coastal counties. Effective Date: upon becoming a law

Actions

01/07/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 1065 Vessel Anchoring by Mooney, Jr.

Vessel Anchoring: Provides tenancy conditions for certain moorings & mooring fields in Monroe County; provides relocation & reanchoring requirements for vessels anchored on waters of state within Monroe County; directs FWCC, in consultation with certain entities, to establish designated anchoring areas throughout Monroe County; removes provisions requiring Monroe County to approve certain moorings; requires certain vessels equipped with marine sanitation devices to maintain pumpout records. Effective Date: July 1, 2022

Actions

01/07/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 1077 Public Financing of Potentially At-risk Structures and Infrastructure by Hunschofsky

Public Financing of Potentially At-risk Structures and Infrastructure: Provides certain areas are at risk due to sea level rise & structures & infrastructure within those areas are potentially at risk. Effective Date: July 1, 2022

Actions

01/10/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 1081 Office of the Blue Economy by Skidmore

Office of the Blue Economy: Establishes Office of the Blue Economy within DEO; provides duties of office; requires EDR to conduct biennial evaluation of blue economy for inclusion in certain assessment. Effective Date: July 1, 2022

Actions

01/10/2022 HOUSE Now in Tourism, Infrastructure & Energy Subcommittee

HB 1113 Employer Retaliation for Covid-19 Quarantine by Benjamin

Employer Retaliation for Covid-19 Quarantine: Prohibits employer from taking retaliatory action against employee who takes leave of absence to quarantine after testing positive for COVID-19 & provides proof of positive test to employer; authorizes employee to use sick leave for such quarantine if sick leave is available to employee. Effective Date: upon becoming a law

Actions

01/10/2022 HOUSE Now in Regulatory Reform Subcommittee

SB 1128 Aquatic Plant Management by Harrell

Aquatic Plant Management; Requiring the Fish and Wildlife Conservation Commission, in consultation with the Institute of Food and Agricultural Sciences at the University of Florida and the Water School at Florida Gulf Coast University, to implement and study certain nutrient removal technologies and mechanical aquatic plant management techniques within the Lake Okeechobee watershed; authorizing the commission to consult and contract with entities for such implementation and study, etc. APPROPRIATION: \$500,000 Effective Date: 7/1/2022

Actions

01/05/2022 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 1129 Mangrove Replanting and Restoration by Avila

Mangrove Replanting and Restoration: Requires DEP to adopt rules for mangrove replanting & restoration; provides rule requirements. Effective Date: July 1, 2022

Actions

01/10/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 1153 Contacting Consumer Debtors by Toledo

Contacting Consumer Debtors: Prohibits contacting debtors in certain situations; provides requirements for each type of debtor; specifies length of each prohibition. Effective Date: July 1, 2022

Actions

01/10/2022 HOUSE Now in Insurance & Banking Subcommittee

HB 1185 Legislative Review of Proposed Regulation of Unregulated Functions by Plakon

Legislative Review of Proposed Regulation of Unregulated Functions: Provides certain requirements before adoption of regulation of unregulated profession or occupation or substantial expansion of regulation of regulated profession or occupation; requires proponents to provide certain information to state agency & Legislature; requires state agency to provide certain information to Legislature; provides exception; revises information that legislative committee must consider when determining whether regulation is justified. Effective Date: July 1, 2022

Actions

01/18/2022 HOUSE On Committee agenda - Regulatory Reform Subcommittee, 01/20/22, 1:00 pm, 212 K

HB 1191 Restrictions on Employment by Altman

Restrictions on Employment: Provides that restrictive covenants are only enforceable against former employee, agent, or independent contractor who voluntarily resigned or was terminated because of misconduct; defines "misconduct". Effective Date: July 1, 2022

Actions

01/10/2022 HOUSE Now in Regulatory Reform Subcommittee

HB 1225 Vessel Safety Flags by Altman

Vessel Safety Flags: Removes requirement that airboats be equipped with masts or flagpoles bearing certain safety flags; prohibits operation & anchoring of vessels without masts or flagpoles bearing certain safety flags under specified conditions; provides penalties. Effective Date: July 1, 2022

Actions

01/12/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 1227 Online Marketplace Transparency by Toledo

Online Marketplace Transparency: Requires online marketplaces to require high-volume third-party sellers using their service to provide information to online marketplace within specified timeframe; requires online marketplace to suspend sellers who do not provide such certification or updated information; requires online marketplaces to disclose information in specified manner; preempts regulation of verification & disclosure of such information to Department of Legal Affairs. Effective Date: July 1, 2022

Actions

01/12/2022 HOUSE Now in Regulatory Reform Subcommittee

SB 1232 Florida Occupational Safety and Health State Plan by Pizzo

Florida Occupational Safety and Health State Plan; Repealing a provision relating to the Florida Occupational Safety and Health State Plan, etc. Effective Date: Upon becoming a law

Actions

01/05/2022 SENATE Referred to Criminal Justice; Judiciary; Rules

SB 1234 Vaccinations During Public Health Emergencies by Pizzo

Vaccinations During Public Health Emergencies; Authorizing the State Health Officer to order the vaccination of individuals upon declaration of a public health emergency under certain circumstances; revising a requirement that the Department of Health adopt certain rules, etc. Effective Date: Upon becoming a law

Actions

01/05/2022 SENATE Referred to Criminal Justice; Health Policy; Rules

SB 1238 Saltwater Intrusion Vulnerability Assessments by Polsky

Saltwater Intrusion Vulnerability Assessments; Requiring coastal counties to conduct vulnerability assessments analyzing the effects of saltwater intrusion on their water supplies and their preparedness to respond to threats, by a specified date; requiring each coastal county to provide copies of its assessment to the Department of Environmental Protection and the respective water management districts; requiring the water management districts, in collaboration with the coastal counties, to submit certain projects to the department based on the assessments by a specified date; requiring the department to provide cost-share funding up to a specified amount for certain coastal counties, etc. Effective Date: Upon becoming a law

Actions

01/05/2022 SENATE Referred to Environment and Natural Resources; Governmental Oversight and Accountability; Appropriations

HB 1265 Local Regulation of Vessels by Caruso

Local Regulation of Vessels: Authorizes local governments to regulate the anchoring of certain vessels. Effective Date: July 1, 2022

Actions

01/12/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 1267 Calculation for Measuring Shrimp Trawls by Shoaf

Calculation for Measuring Shrimp Trawls: Proposes amendment to State Constitution to provide calculation for measuring mesh area of shrimp trawls under marine net fishing limitation.

Actions

01/12/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

SB 1270 Recreational Licenses and Permits for Military Servicemembers and Veterans by Albritton

Recreational Licenses and Permits for Military Servicemembers and Veterans; Providing free and discounted hunting, freshwater fishing, and saltwater fishing licenses and permits to certain military servicemembers and veterans, etc. Effective Date: 7/1/2022

Actions

01/12/2022 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 01/14/22, 1:30 pm, 117 K (No Votes Will Be Taken)

SB 1276 Legislative Review of Proposed Regulation of Unregulated Functions by Diaz

Legislative Review of Proposed Regulation of Unregulated Functions; Providing that certain requirements must be met before adopting the regulation of an unregulated profession or occupation or the substantial expansion of regulation of a regulated profession or occupation; requiring the proponents of legislation that proposes such regulation to provide certain information to the state

agency that would have jurisdiction over the proposed regulation and to the Legislature by a certain date; requiring such state agency to provide certain information to the Legislature within a specified timeframe; providing an exception, etc. Effective Date: 7/1/2022

Actions

01/05/2022 SENATE Referred to Regulated Industries; Governmental Oversight and Accountability; Rules

SB 1306 Leave for Family or Household Members of Homicide Victims by Jones

Leave for Family or Household Members of Homicide Victims; Requiring employers to authorize employees to request and take up to a specified number of days of leave from work under certain circumstances; requiring employees taking such leave to provide advance notice and documentation to employers; requiring private employers to keep information relating to such leave confidential; providing a remedy for violations of specified provisions, etc. Effective Date: 7/1/2022

Actions

01/05/2022 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Appropriations

SB 1308 Public Records/Family or Household Members of Homicide Victims by Jones

Public Records/Family or Household Members of Homicide Victims; Providing a public records exemption for certain personal identifying information, records, and timesheets submitted to an agency by an employee who is requesting specified leave relating to a homicide; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. Effective Date: On the same date that SB 1306 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law

Actions

01/05/2022 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Appropriations

SB 1338 Floating Solar Facilities by Diaz

Floating Solar Facilities; Defining the term "floating solar facility"; providing that a floating solar facility must be a permitted use in appropriate land use categories in each local government's comprehensive plan; requiring each local government to amend its development regulations to promote the expanded use of floating solar facilities; requiring the Office of Energy within the Department of Agriculture and Consumer Services to submit specified recommendations to the Legislature to provide a regulatory framework relating to floating solar facilities, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Regulated Industries; Community Affairs; Rules

SB 1352 Limitations on Political Contributions by Brodeur

Limitations on Political Contributions; Defining the term "foreign national"; providing that a foreign national may not make or offer to make certain contributions or expenditures, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Ethics and Elections; Judiciary; Rules

HB 1381 Retail Petroleum Fuel Measuring Devices by Silvers

Retail Petroleum Fuel Measuring Devices: Removes provisions authorizing security tape & daily inspections as security measure options for retail petroleum fuel measuring devices; requires owners & operators of retail petroleum fuel measuring devices to conduct daily inspections & report security breaches to DACS; requires registered meter mechanics to report illegal devices to DACS. Effective Date: July 1, 2022

Actions

HB 1411 Floating Solar Facilities by Avila

Floating Solar Facilities: Provides legislative findings regarding floating solar facilities; requires floating solar facility to be permitted use in certain land-use categories; requires local governments to promote expanded uses of floating solar facilities by taking specified actions; authorizes county to specify buffer & landscaping requirements; provides exceptions on construction of floating solar facilities; requires Office of Energy within DACS to submit specified recommendations regarding floating solar facilities for certain entities. Effective Date: July 1, 2022

Actions

01/16/2022 HOUSE Now in Tourism, Infrastructure & Energy Subcommittee

SB 1416 Mangrove Replanting and Restoration by Garcia

Mangrove Replanting and Restoration: Requiring the Department of Environmental Protection to adopt rules for mangrove replanting and restoration, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules

SB 1424 Prohibited Practices when Collecting Consumer Debts by Rodriguez (A)

Prohibited Practices when Collecting Consumer Debts; Prohibiting persons from contacting debtors when collecting a consumer debt if the debt arises from specified circumstances relating to domestic abuse, elder abuse, human trafficking, identify theft, exploitation of a vulnerable adult, or sexual abuse and certain requirements are met; providing applicability, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Banking and Insurance; Commerce and Tourism; Rules

SB 1426 Water Quality Enhancement Areas by Burgess

Water Quality Enhancement Areas; Providing for water quality enhancement areas, enhancement service areas, and enhancement credits; providing requirements for water quality enhancement area permits, enhancement service areas, and enhancement credits; directing the Department of Environmental Protection and water management districts to authorize the sale and use of enhancement credits to offset certain adverse water quality impacts and to meet certain water quality requirements, etc. Effective Date: Upon becoming a law

Actions

01/12/2022 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

SB 1432 Vessel Anchoring by Rodriguez (A)

Vessel Anchoring; Providing tenancy and lease conditions for approved and permitted mooring and mooring fields in Monroe County; requiring certain anchored vessels in Monroe County to be re-anchored in a new location that meets certain requirements according to a specified timeframe; requiring the Fish and Wildlife Conservation Commission, in consultation with certain entities, to establish designated anchoring areas within the county by rule; providing an exception for certain domiciled vessels; requiring certain vessels equipped with marine sanitation devices to maintain specified records of such devices, etc. Effective Date: 7/1/2022

Actions

01/18/2022 SENATE Committee Substitute Text (C1) Filed

SB 1434 Public Financing of Potentially At-risk Structures and Infrastructure by Rodriguez (A)

Public Financing of Potentially At-risk Structures and Infrastructure; Providing that certain areas are at risk due to sea-level rise and structures and infrastructure within those areas are potentially at risk; providing an additional requirement for the standard for conducting a SLIP study, etc. Effective Date: 7/1/2022

Actions

01/19/2022 SENATE On Committee agenda - Environment and Natural Resources, 01/24/22, 3:00 pm, 37 S

SB 1454 Office of the Blue Economy by Ausley

Office of the Blue Economy; Establishing the office within the Department of Economic Opportunity; defining the term "blue economy"; providing duties of the office; requiring the Office of Economic and Demographic Research to conduct a biennial evaluation of the blue economy for inclusion in a certain assessment, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

SB 1546 Vessel Safety Flags by Baxley

Vessel Safety Flags: Removing the requirement that airboats be equipped with masts or flagpoles bearing certain safety flags; prohibiting the operation and anchoring of vessels without masts or flagpoles bearing certain safety flags under specified conditions, etc. Effective Date: 7/1/2023

Actions

01/12/2022 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules

SB 1570 Economic Assistance to New Businesses by Jones

Economic Assistance to New Businesses; Requiring the Department of Management Services to encourage agencies to allocate a certain percentage of specified funds to purchase commodities and contractual services from certain businesses; requiring the Department of Economic Opportunity to award a specified minimum amount of funds to certain businesses; creating the "Florida Right to Start Act"; prohibiting agencies from requiring eligible new businesses or persons establishing an eligible new business from paying fees relating to licenses or registrations for the business for a specified amount of time; creating the Self-Employment Assistance Program within the Department of Economic Opportunity; requiring that a specified percentage of workforce development funding go to certain individuals and businesses, etc. Effective Date: 1/1/2023

Actions

01/12/2022 SENATE Referred to Commerce and Tourism; Finance and Tax; Appropriations

SB 1584 Outstanding Florida Springs by Gruters

Outstanding Florida Springs; Designating additional springs as Outstanding Florida Springs, etc. Effective Date: Upon becoming a law

Actions

01/12/2022 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules

HB 1593 Ocean Highway and Port Authority, Nassau County by Byrd

Ocean Highway and Port Authority, Nassau County: Prohibits shifting responsibility for paying ad valorem taxes of authority-owned properties used for private purposes to authority; provides exceptions for necessity of authority to obtain certain documentation to develop facilities or otherwise improve its facilities. Effective Date: upon becoming a law

Actions

01/16/2022 HOUSE Now in Local Administration & Veterans Affairs Subcommittee

SB 1650 Boating and Vessel Safety by Gruters

Boating and Vessel Safety; 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; requiring instructors of water sports and activities to wear engine cutoff switches under certain conditions, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

SB 1714 Prohibited Employer Retaliation Related to COVID-19 by Taddeo

Prohibited Employer Retaliation Related to COVID-19; Prohibiting an employer from taking retaliatory action against an employee who takes a leave of absence to quarantine after testing positive for COVID-19 and provides proof of the positive test to the employer; authorizing an employee to use sick leave for such quarantine if sick leave is available to the employee, etc. Effective Date: Upon becoming a law

Actions

01/12/2022 SENATE Referred to Commerce and Tourism; Judiciary; Rules

SB 1900 Preemption to the State by Torres, Jr.

Preemption to the State; Removing provisions which preempt counties, municipalities, and other local governmental entities from enacting or adopting any limitation or restriction involving certain contributions and expenditures, or establishing contribution limits different than those established in the Florida Election Code; removing provisions which require counties and entities of local government to pay ad valorem taxes or fees under specified conditions on certain telecommunications facilities; removing provisions which require municipalities and other entities of local government to pay ad valorem taxes or fees under specified conditions on certain telecommunications facilities, etc. Effective Date: On the effective date of the amendment to the State Constitution proposed by SJR 152 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment to the State Constitution is approved at the general election held in November 2022 or at an earlier special election specifically authorized by law for that purpose

Actions

01/12/2022 SENATE Referred to Community Affairs; Judiciary; Appropriations

SB 1940 Statewide Flooding and Sea Level Rise Resilience by Brodeur

Statewide Flooding and Sea Level Rise Resilience; Establishing the Statewide Office of Resiliency within the Executive Office of the Governor; providing for the appointment of a Chief Resilience Officer, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 2233 Bonefish and Tarpon Trust Restoring Coastal Resilience and Water Quality by Rommel

Bonefish and Tarpon Trust Restoring Coastal Resilience and Water Quality: Provides an appropriation for the Bonefish and Tarpon Trust Restoring Coastal Resilience and Water Quality. Effective Date: July 1, 2022

Actions

01/13/2022 HOUSE Now in Appropriations Committee

HB 2819 Florida Ocean Alliance Expanding Florida's Blue Economy by Latvala

Florida Ocean Alliance Expanding Florida's Blue Economy: Provides an appropriation for the Florida Ocean Alliance Expanding Florida's Blue Economy. Effective Date: July 1, 2022

Actions

11/18/2021 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

HB 2897 Monroe County Mobile Vessel Pumpout Program by Mooney, Jr.

Monroe County Mobile Vessel Pumpout Program: Provides an appropriation for the Monroe County Mobile Vessel Pumpout Program. Effective Date: July 1, 2022

Actions

01/13/2022 HOUSE Now in Appropriations Committee

HB 6001 Verification of Employment Eligibility by a Private Employer by Sabatini

Verification of Employment Eligibility by a Private Employer: Removes option for private employer to verify person's employment eligibility using specified federal form; removes requirement that private employer maintain records for specified length of time; removes authorization for certain persons & entities to request, & requirement that private employer provide, documentation relating to person's employment eligibility. Effective Date: July 1, 2022

Actions

09/17/2021 HOUSE Now in Regulatory Reform Subcommittee

HB 6003 Legal Rights of the Natural Environment by Eskamani

Legal Rights of the Natural Environment: Removes provisions prohibiting local governments from recognizing or granting certain legal rights to natural environment or granting such rights relating to natural environment to person or political subdivision. Effective Date: July 1, 2022

Actions

09/17/2021 HOUSE Now in Civil Justice & Property Rights Subcommittee

HB 6047 Wage and Employment Benefits Requirements by Smith (C)

Wage and Employment Benefits Requirements: Repeals provisions relating to prohibitions on establishment of minimum wage & employment benefits requirements by political subdivisions. Effective Date: July 1, 2022

Actions

10/22/2021 HOUSE Now in Regulatory Reform Subcommittee

HB 6051 Aircraft Sales and Lease Tax by Overdorf

Aircraft Sales and Lease Tax: Exempts all aircraft sales & leases from sales & use tax. Effective Date: July 1, 2022

Actions

11/18/2021 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 11/19/21, 1:30 pm, 117 K (No Votes Will Be Taken)

HB 6083 Fuel Sales Tax by Learned

Fuel Sales Tax: Removes annual indexing of fuel sales tax rates. Effective Date: July 1, 2022

Actions

12/13/2021 HOUSE Now in Tourism, Infrastructure & Energy Subcommittee