

# WEEK 5 REPORT

// 2022 LEGISLATIVE SESSION

**+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA**

FEBRUARY 7 - 11, 2022



# // WEEK 5 REPORT

## CONTENTS

### SB 198 // HB 349

Seagrass Mitigation

### SB 238 // HB 711

Endangered Species

### SB 494 // HB 323

Florida Fish and Wildlife

### SB 606 // HB 493

Boating Safety

### SB 820 // HB 529

Yacht and Ship Brokers Act

### SB 840 // HB 841

Riparian Rights

### SB 1650 // HB 701

Boating and Vessel Safety

### SB 1432 // HB 1065

Vessel Anchoring

### SB 1546 // HB 1225

Vessel Safety Flags

### HB 1265

Local Regulation of Vessels

### SB 1454 // HB 1081

Office of Blue Economy

Tensions are building as the fifth week of the 2022 Legislative Session came to an end. Congressional reapportionment continues to dominate the headlines as the Governor and the Legislature try and figure out new congressional districts. Also, many other issues that will dominate the election cycle are working their way through the Legislature such as parental rights, abortion and COVID 19 mandates.

Even with all those hot button issues, several marine related bills are creeping their way through committees and the Senate floor. Boating safety bills, riparian rights and the FWC Glitch bill all had a hearing this week. As we enter week six, these bills are all very much alive and have a chance of passing both the House of Representatives and the Senate.

The budget process continued to move along this week. Both the House of Representatives and the Senate held full Appropriation Committee Meetings this week taking up amendments to the budgets and numerous budget conforming bills. The budgets are now set to be heard on the floor of the Senate and the floor of the Florida House during week six. We will continue to watch for amendments and listen to the lively debate on the conforming bills.

As a reminder, below are some of the budget issues we are watching relating to boating.

### Budget

#### House Budget

1762A SPECIAL CATEGORIES CORAL REEF PROTECTION AND RESTORATION

FROM GENERAL REVENUE FUND . . . . . 8,000,000

Funds in Specific Appropriation 1762A are provided for coral reef restoration and protection efforts.

1777 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND . . . 500,000



1824 FIXED CAPITAL OUTLAY DERELICT VESSEL REMOVAL PROGRAM

FROM GENERAL REVENUE FUND . . . . . 6,240,127

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 2,001,873

From the funds in Specific Appropriation 1824, \$2,001,873 in nonrecurring funds from the Marine Resources Conservation Trust Fund is provided to the Fish and Wildlife Conservation Commission for derelict vessel removal grants pursuant to section 376.15, Florida Statutes.

1825 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND . . . 5,200,000

1837 SPECIAL CATEGORIES BOATING AND WATERWAYS ACTIVITIES

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 1,626,025

1842 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 625,650

1845 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 793,704

FROM STATE GAME TRUST FUND . . . . . 1,250,000

1912 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

FROM FEDERAL GRANTS TRUST FUND . . . 300,000

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 300,000

**Senate Budget**

1731 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
GRANTS AND AIDS - REEF PROTECTION AND TIRE ABATEMENT

FROM SOLID WASTE MANAGEMENT TRUST FUND . . . . . 3,000,000

1777 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND . . . 500,000

1824 FIXED CAPITAL OUTLAY DERELICT VESSEL REMOVAL PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 500,468

1825 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND . . . 5,200,000

1837 SPECIAL CATEGORIES BOATING AND WATERWAYS ACTIVITIES

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 1,626,025

1842 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 625,650

1843 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
DERELICT VESSEL REMOVAL PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 1,501,405

1845 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 793,704

FROM STATE GAME TRUST FUND . . . . . 1,250,000

**Bills**

The Florida Fish and Wildlife “Glitch” Bill continues to be a work in progress regarding the rowing issue in the ICW. The Senate bill was heard on Senate Special Order this week and passed with a late filed amendment. The bill is Engrossed and is now in Messages to the House. Unfortunately, we are not completely satisfied with the amendment and still have safety concerns. FWC does not seem to have the same safety concerns as MIAF and other stakeholders. FWC does not want to be told how to police and MIAF continues to be concerned about potential accidents. MIAF and other stakeholders are continuing to work on this issue with the House and have reached out to the United States Coast Guard. The House bill has been heard in its first committee of reference and does not contain the rowing language. The bill is scheduled to be heard in its second committee of reference on February 14th in the House Agriculture and Natural Resources Appropriations Subcommittee. As of the writing of this report, an amendment has not posted for the hearing. We will continue to watch for any amendments to this bill.

The Boating Safety Bills filed by Senator Garcia and Representative Botana continue to be something to watch almost every week. Senate Bill 606 relating to Boating Safety by Senator was on the agenda in the Senate Appropriations Committee February 9th at 9:00 am and ran into some questions from Senators relating to the substance of the bill. The bill was temporarily passed. A proposed committee substitute was filed on January 28th to SB 606 and is still filed. The House companion, House Bill 493 was heard in the Senate Environment, Agriculture and Flooding Subcommittee. A proposed substitute was offered and adopted in committee. The bill has two more committees of reference and is scheduled to be heard in its second committee of reference on February 14th. A committee reference was removed as the bill originally had four committees of reference. No amendments are filed as of the writing of this report for the House Agriculture

and Natural Resources Appropriations Subcommittee on the 14th. We will keep you posted as this bill does have a chance to pass with the time left during the sixty day Legislative Session if issues can be worked out in Senate Appropriations.

Senate Bill 840, relating to Riparian Rights passed the Senate floor 39-0. An amendment was also offered on the floor and adopted to the bill. The bill is now in Messages to the House of Representatives. HB 841 was heard in its second committee of reference, House Environment, Agriculture and Flooding Subcommittee and passed as a Committee Substitute. The bill has one more committee stop in the House of Representatives.

The Vessel Flag legislation (SB 1546) filed by Senator Baxley and Representative Altman (HB 1225) caught our eye as it was an expansion from airboats to all vessels. Our office met with the sponsors and asked questions and expressed concerns about the broadness of the bill as written. We are currently working on some suggested language to propose to the sponsors for consideration. Again, the bills have not been placed on the agenda as of the writing of this report. The House bill only has two committees of reference. Time is running out on this legislation as committee meetings will be wrapping up in the next two weeks.

Senate Bill 198 Seagrass Mitigation passed the Senate Environment and Natural Resource Committee as a Committee Substitute. The bill passed 3-2. The bill is still waiting to be heard in the Senate Community Affairs Committee meeting. The bill was not on the agenda as of the writing of this report. The House companion, House Bill 349, is waiting to be heard in its second committee of reference. Again, as of the writing of this report the bills have not been placed on agendas.

Also, Senate Bill 1432 regarding Vessel Anchoring passed the Senate Environment and Natural Resource Committee with an amendment. The bill is now a Committee Substitute and passed 5-0. This bill passed the Senate Community Affairs Committee as a Committee Substitute for Committee Substitute. The bill passed 9-0. The Senate Bill is scheduled to be heard in the Senate Rules Committee on February 15th. The House companion, House Bill 1065 its first committee this week 16-0. The bill is picking up steam and is now scheduled to be heard in its second committee of reference, House Agriculture, and Natural Resources Appropriations Subcommittee on February 14th.

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.

Again, thank you and below are some of the highlighted bills we are tracking this Session.

A handwritten signature in dark blue ink, appearing to read 'Margaret Timmins', with a stylized flourish at the end.

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:** CS/SB 198 authorizes the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) to grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under, and meet the public interest criteria in, state law. The bill provides that it does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs upon meeting the public interest criteria. It also directs the Department of Environmental Protection to adopt and modify rules to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation.

The bill revises the existing Environmental Resource Permitting (ERP) program exceptions for:

- The installation and repair of certain mooring pilings and dolphins, piers, and recreational docking facilities, to provide that docks authorized under same must be granted authorization for the use of submerged lands upon approval by the Board of Trustees; and
- Floating vessel platform or floating boat lift structures, to:
  - Create a presumption of compliance with any requirement to minimize adverse environmental impacts, where they are associated with a dock on a parcel of land; and
  - Provide that local governments may require only a one-time registration of certain floating vessel platforms to ensure compliance with listed exemption criteria or with local electrical or plumbing codes that are no more stringent than the exemption criteria or address other subjects.

The bill also provides a definition for the term “local government.”

**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:** Read Second Time; Amendment Adopted (289912); Read Third Time; Passed (Vote: 39 Yeas / 0 Nays); Immediately certified; In Messages

**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 by Agriculture & Natural Resources Appropriations Subcommittee; 12 Yeas, 0 Nays

*Attached documents: CS/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 an appropriation of \$2 million in recurring funds from the General Revenue Fund to the FWC and authorizes seven positions with associated salary rate of \$322,763 for the Illegal Boating Strike Team. The bill also appropriates \$100,000 in recurring funds from the General Revenue Fund to the FWC and authorizes one position with associated salary rate of \$60,000, relating to ensuring compliance with mandatory boating safety education requirements.

The bill also appropriates \$125,000 in nonrecurring funds for the 2022-2023 fiscal year from the General Revenue Fund to the FWC for the purpose of implementing the no-cost livery permitting requirement.

### **Most Recent Action:** Temporarily Postponed by Appropriations

**House Bill 493:** The Fish and Wildlife Conservation Commission (FWC), created by Article IV, section 9, of the Florida Constitution, is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources. FWC is also the agency responsible for regulating boating in the state. Through its Division of Law Enforcement, FWC manages the state's waterways to ensure boating safety for residents of and visitors to the state. This responsibility 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.

A livery vessel is a vessel that is leased, rented, or chartered to another for consideration. A facility that rents and leases such vessels is called a livery. Current law imposes certain requirements on liveries and prohibits them from renting or leasing vessels under certain circumstances.

Beginning January 1, 2023, the bill prohibits a livery from offering a vessel for lease or rent without first being issued a no-cost livery permit by FWC, which must be renewed annually. The bill also requires liveries to implement certain safety requirements and establishes penalties for violations of livery requirements.

The bill authorizes a court to order a person who is convicted of a violation related to boating collisions and accidents to pay an additional fine of up to \$1,000 per violation.

The bill increases or establishes maximum penalties for certain noncriminal infractions of vessel safety laws. The bill also increases the default civil penalty for noncriminal infractions of vessel laws from \$50 to \$100, which applies when a different maximum penalty is not specified for a particular infraction.

The bill requires a person who is subject to mandatory education requirements as a result of certain violations of vessel laws to pay a fine of \$500. The bill also requires FWC to maintain a program to ensure violators are in compliance with mandatory boating safety education requirements.

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

The bill may have an indeterminate negative fiscal impact on the state that can be absorbed within existing resources and no fiscal impact on local governments.

**Most Recent Action:** Favorable with CS by Agriculture & Natural Resources Appropriations Subcommittee; 13 Yeas, 0 Nays

*Attached documents: PCS to SB 606 + Staff Analysis; CS/CS/HB 493 + Staff Analysis*

## // 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:** The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through 12 divisions, including the Division of Florida Condominiums, Timeshares, and Mobile Homes (division), which regulates yacht and ship brokers and salespersons. A person may not act as a broker or salesperson in Florida unless they are licensed by the division.

For the purposes of the practice act, "yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.

A yacht and ship "broker" is a person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons. A person may not be licensed as a broker unless they have been a salesperson for at least 2 consecutive years.

A license is not required for:

- A person who sells his or her own yacht,
- An attorney at law for services rendered in his or her professional capacity,
- A receiver, trustee, or other person acting under a court order,
- A transaction involving the sale of a new yacht, or
- A transaction involving the foreclosure of a security interest in a yacht.

The PCS provides that a license is not required for a person who regularly conducts business as a yacht or ship broker or salesperson in another state who engages in the purchase or sale of a yacht under this act, if the transaction is executed with a broker or salesperson licensed in this state. This limitation does not apply to a duly licensed attorney.

The bill may have a minimal indeterminate fiscal impact on state government, and no fiscal impact on local governments.

The PCS is effective upon becoming law.

**Most Recent Action:** Favorable by State Administration & Technology Appropriations Subcommittee; 13 Yeas, 0 Nays

*Attached documents: SB 820 (as filed); CS/HB 529 + Staff Analysis*

## // 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:** Favorable by Rules; 15 Yeas, 0 Nays; Placed on Calendar, on 2nd reading

**House Bill 841:** Riparian rights are rights incident to land bordering navigable waters such as rivers and streams ("riparian land") and include rights of ingress, egress, boating, bathing, and fishing and to an unobstructed view. Riparian rights also include the right to erect upon the bed and shores adjacent to the riparian land docks and other structures for the riparian land owner's personal use, subject to the right of the public to use the navigable waters. In other words, structures built on riparian land may not impede navigation or other lawful public uses and generally may not extend beyond the line of navigation. Riparian rights inure to the riparian land owner and are appurtenant to and inseparable from the riparian land. Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running with the land whether or not such rights are mentioned in the deed or lease.

In order for riparian rights to attach, the riparian land must extend to the ordinary high water mark of the navigable water. However, courts have acknowledged that there is no one proper method for establishing riparian rights boundaries, and such rights do not necessarily extend into the waters according to riparian land boundaries. Instead, boundaries must be apportioned and riparian rights determined in accordance with equitable principles, with consideration given to the lay of the shore line, the direction of the waterbody, and the co-relative rights of adjoining riparian land owners. Despite these guidelines, it is possible to have two land surveyors draw riparian boundaries for adjoining properties in two different locations if they use

different methods for establishing such boundaries. A riparian land owner who believes that the boundaries of his or her riparian rights have not been properly drawn or his or her riparian rights have been otherwise violated may bring an action for relief in the circuit court where the riparian land is located.

HB 841 establishes a preferred method for 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. Specifically, the bill requires that, when establishing such boundaries after July 1, 2022, a land surveyor must give preference to the "prolongation-of-property-line" method unless doing so would result in inequitable apportionment of riparian rights among other land owners along the channel. Further, the bill provides that, in a civil action relating to a residential dock owner's riparian rights, when such rights are exercised with all appropriate environmental and regulatory approvals and permits and the defendant prevails, the court must award the defendant his or her reasonable attorney fees and costs.

The bill may have a positive indeterminate fiscal impact on state government but does not appear to have a fiscal impact on local governments.

**Most Recent Action:** Favorable with CS by Environment, Agriculture & Flooding Subcommittee; 15 Yeas, 0 Nays

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

## // 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:** On Committee agenda - Commerce Committee, 02/17/22, 9:00 am, 212 K

*Attached documents: SB 1650 (as filed); CS/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 pump-out.

**Most Recent Action:** Favorable by Rules; 17 Yeas, 0 Nays

**House Bill 1065:** Current law designates certain densely populated urban areas that have narrow state waterways, residential docking facilities, and significant boating traffic as anchoring limitation areas. In an anchoring limitation area, a person is prohibited from anchoring a vessel at any time during the period between one half hour after sunset and one half-hour before sunrise.

The Division of Law Enforcement of the Fish and Wildlife Conservation Commission (FWC) and its officers, county sheriffs and deputies, and municipal police officers typically enforce anchoring limitation areas. In 2021, the Legislature designated Monroe County as an anchoring limitation area where a vessel on waters of the state can only anchor in the same location for a maximum of 90 days. The establishment of Monroe County as an anchoring limitation area does not take effect until Monroe County approves, permits, and opens new moorings for public use, including 250 moorings within one mile of Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field.

The bill specifies 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 primary residence.

The bill clarifies requirements related to the designation of Monroe County as an anchoring limitation area. Specifically, the bill requires each vessel anchored on state waters within 10 nautical miles of a public mooring field or a designated anchoring area to pull anchor, move from its location using its propulsion system, and reanchor in a new location no less than once every 90 days.

The bill specifies that these requirements do not apply to vessels moored to approved and permitted moorings. Additionally, until at least 100 new moorings are available for public use within one mile of Key West Bight City Dock, these requirements do not apply to live-aboard vessels on state waters within Monroe County.

The bill requires certain vessels within Monroe County on state waters 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.

The bill may have an insignificant negative fiscal impact on the state.

**Most Recent Action:** Favorable by Agriculture & Natural Resources Appropriations Subcommittee; 14 Yeas, 0 Nays

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

## // 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

2022198c1

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

592-02072-22

2022198c1

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;

592-02072-22

2022198c1

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



592-02072-22

2022198c1

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

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

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

131 5. Are not constructed in areas specifically prohibited for  
132 boat mooring under conditions of a permit issued in accordance  
133 with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes  
134 1983, as amended, or part IV of chapter 373, or other form of  
135 authorization issued by a local government.

136  
137 Structures that qualify for this exemption are relieved from any  
138 requirement to obtain permission to use or occupy lands owned by  
139 the Board of Trustees of the Internal Improvement Trust Fund  
140 and, with the exception of those structures attached to a  
141 bulkhead on a parcel of land where there is no docking  
142 structure, are ~~may~~ not ~~be~~ subject to any more stringent  
143 permitting requirements, registration requirements, or other  
144 regulation by any local government. Structures associated with a  
145 dock on a parcel of land under subparagraph 2. which comply with

592-02072-22

2022198c1

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

592-02072-22

2022198c1

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.

**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.)

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

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BILL: CS/SB 198

INTRODUCER: Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Seagrass Mitigation Banks

DATE: January 19, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Rogers	EN	<b>Fav/CS</b>
2.			CA	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 198 authorizes the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) to grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under, and meet the public interest criteria in, state law. The bill provides that it does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs upon meeting the public interest criteria. It also directs the Department of Environmental Protection to adopt and modify rules to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation.

The bill revises the existing Environmental Resource Permitting (ERP) program exceptions for:

- The installation and repair of certain mooring pilings and dolphins, piers, and recreational docking facilities, to provide that docks authorized under same must be granted authorization for the use of submerged lands upon approval by the Board of Trustees; and
- Floating vessel platform or floating boat lift structures, to:
  - Create a presumption of compliance with any requirement to minimize adverse environmental impacts, where they are associated with a dock on a parcel of land; and
  - Provide that local governments may require only a one-time registration of certain floating vessel platforms to ensure compliance with listed exemption criteria or with local electrical or plumbing codes that are no more stringent than the exemption criteria or address other subjects.

The bill also provides a definition for the term “local government.”

## II. Present Situation:

### Seagrasses

Seagrasses are grass-like flowering plants that live completely submerged in marine and estuarine waters.<sup>1</sup> 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.<sup>2</sup> The depth at which seagrasses occur is limited by water clarity because most species require high levels of light.<sup>3</sup> 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.<sup>4</sup> There are seven different species of seagrasses found in Florida's waters.<sup>5</sup>

Along Florida's coastline and within its estuaries, there are more than 2 million acres of seagrass.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> In many cases a person operating a vessel outside a marked channel that causes "seagrass scarring" within an aquatic preserve commits a noncriminal infraction.<sup>9</sup>

### 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,<sup>10</sup> beneath navigable fresh water or tidally-influenced waters.<sup>11</sup> Under the State Constitution, the title to all sovereign submerged lands is held by the state in trust for the people.<sup>12</sup> This generally

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

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *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.

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

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Section 253.04(3), F.S. (2021).

<sup>10</sup> 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.

<sup>11</sup> Fla. Admin. Code R. 18-21.003(67).

<sup>12</sup> FLA. CONST. art. X, s. 11.

provides the public with the right to use sovereign submerged lands for traditional recreational purposes such as swimming, boating, and fishing.<sup>13</sup>

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.<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup> 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 natural resources.<sup>17</sup> 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.<sup>18</sup>

Florida law authorizes the Board of Trustees to adopt rules to administer sovereign submerged lands.<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup>

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;

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<sup>13</sup> 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).

<sup>14</sup> Sections 253.03 and 253.12(1), F.S.

<sup>15</sup> Section 253.04(3), F.S.

<sup>16</sup> 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).

<sup>17</sup> Section 253.12(2)(a), F.S.

<sup>18</sup> Section 253.12(4)(e), F.S.

<sup>19</sup> Sections 253.03(7) and 253.73, F.S.

<sup>20</sup> *See* Fla. Admin. Code R. 18-21.005.

<sup>21</sup> 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).

<sup>22</sup> Fla. Admin. Code R. 18-21.002(1).



- 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.<sup>23</sup>

## 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 all appropriate and practicable steps to avoid and minimize adverse impacts to waters of the U.S.<sup>24</sup> 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.<sup>25</sup>

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.

<sup>23</sup> Section 373.414(1)(a), F.S.

<sup>24</sup> 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](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).

<sup>25</sup> EPA, *Wetlands Compensatory Mitigation*, available at [https://www.epa.gov/sites/production/files/2015-08/documents/compensatory\\_mitigation\\_factsheet.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/compensatory_mitigation_factsheet.pdf) (last visited Jan. 11, 2022).

- 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.<sup>26</sup>

### *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).<sup>27</sup> 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.<sup>28</sup> ERP applications are processed by either DEP or one of the water management districts in accordance with the division of responsibilities specified in operating agreements between DEP and the water management districts.<sup>29</sup>

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.<sup>30</sup> After such requirements have been completed, mitigation is required to offset the adverse impacts.<sup>31</sup> Mitigation under the ERP program is evaluated in light of the programmatic goal of no net loss of wetland and other surface water functions.<sup>32</sup> Mitigation can be conducted on-site, off-site, or through the purchase of credits from a mitigation bank, or through a combination of approaches.<sup>33</sup> 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.<sup>34</sup>

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

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<sup>26</sup> 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).

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

<sup>28</sup> 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).

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

<sup>30</sup> 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).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 10-1, 10-24.

<sup>33</sup> *Id.* at 10-25.

<sup>34</sup> *Id.*

<sup>35</sup> See generally ss. 373.4135 and 373.4136, F.S.

<sup>36</sup> See generally Fla. Admin. Code Ch. 62-342.

## 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.<sup>37</sup> 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.<sup>38</sup> The number of potential credits permitted for the bank, and the credit debits required for impact permits, are determined by the permitting agencies.<sup>39</sup>

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.<sup>40</sup> Through this process, depending on agency approval, a mitigation bank may provide mitigation for permittees under both the federal and state permitting programs.

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.<sup>41</sup> They are approved by an interagency review team, through procedures involving public notice and comment.<sup>42</sup> 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.<sup>43</sup>

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.<sup>44</sup>

The applicant must also provide reasonable assurance that:

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

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> 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).

<sup>41</sup> 33 C.F.R. s. 332.2.

<sup>42</sup> 33 C.F.R. s. 332.8; 40 C.F.R. s. 230.98.

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

<sup>44</sup> Section 373.4136(1), F.S.

- 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.<sup>45</sup>

## 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 mitigation bank can provide better protection of seagrass resources than permittee-responsible mitigation.<sup>46</sup>

### *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.<sup>47</sup> 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.”<sup>48</sup>

Governor Crist vetoed the 2008 bill.<sup>49</sup> 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.<sup>50</sup> 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.<sup>51</sup> 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

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<sup>45</sup> *Id.*; Fla. Admin. Code R. 62-342.400.

<sup>46</sup> 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).

<sup>47</sup> CS/HB 7059 (Reg. Sess. 2008).

<sup>48</sup> *Id.*

<sup>49</sup> 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).

<sup>50</sup> *Id.* at 1.

<sup>51</sup> *Id.* at 2.

that implementing the banks would require excluding the public from the sovereignty submerged lands and contravene the public's navigation rights.<sup>52</sup>

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.<sup>53</sup> 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.<sup>54</sup> The bill died in its second committee of reference.

In a 2021 analysis, DEP raised several concerns and comments about seagrass mitigation banks.<sup>55</sup> 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 submerged lands, including swimming, boating, and fishing.<sup>56</sup> 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.<sup>57</sup>

### Exceptions to Requirements for Environmental Resource Permitting

DEP's Environmental Resource Permitting (ERP) program regulates activities involving the alteration of surface water flows.<sup>58</sup> The ERP program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters).<sup>59</sup>

For a number of low impact activities and projects that are narrow in scope, an ERP permit is not required under state law.<sup>60</sup> Engaging in these activities and projects requires compliance with applicable local requirements, but generally requires no notice to DEP.<sup>61</sup> A broad array of

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<sup>52</sup> *Id.*

<sup>53</sup> SB 1668 (Reg. Sess. 2021).

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

<sup>55</sup> 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](https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/5170/9341_MeetingPacket_5170.29.21.pdf) (last visited Jan. 11, 2022).

<sup>56</sup> *Id.* at 1.

<sup>57</sup> *Id.* at 2.

<sup>58</sup> Chapter 373, p. IV, F.S.; Fla. Admin. Code Ch. 62-330; DEP, *DEP 101: Environmental Resource Permitting*, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Jan. 18, 2022).

<sup>59</sup> Fla. Admin. Code R. 62-330.010(1)-(3). The responsibilities for implementing the statewide ERP program are partially delegated by DEP to the water management districts and certain local governments.

<sup>60</sup> Section 403.813, F.S.

<sup>61</sup> Fla. Admin. Code Rules 62-330.050(1) and 62-330.051(2).

activities are expressly exempted from the ERP program, and these include, but are not limited to: the installation of overhead transmission lines; installation and maintenance of boat ramps; work on seawalls and mooring pilings, swales, and foot bridges; the removal of aquatic plants; construction and operation of floating vessel platforms; and work on county roads and bridges.<sup>62</sup> Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands owned by the Board of Trustees or a water management district in its governmental or proprietary capacity.<sup>63</sup>

***ERP Exemption for Certain Mooring Pilings, Dolphins, Private Docks, Piers, and Recreational Docking Facilities***

There is an ERP exemption for 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:<sup>64</sup>

- 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
- 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.<sup>65</sup>

The exemption does not prohibit DEP from taking appropriate enforcement action pursuant to ch. 403, F.S., to abate or prohibit any activity otherwise exempt from permitting pursuant to this exemption if DEP can demonstrate that the exempted activity has caused water pollution in violation of ch. 403, F.S.<sup>66</sup>

***ERP Exemption for Certain Floating Vessel Platforms or Floating Boat Lifts***

There is also an ERP exemption for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:<sup>67</sup>

- 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;

<sup>62</sup> Section 403.813(1), F.S.; Fla. Admin. Code R. 62-330.051.

<sup>63</sup> Section 403.813(1), F.S.; *but see* s. 403.813(1)(s), F.S. (specifically relieving qualifying FVP structures from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees).

<sup>64</sup> Section 403.813(1)(b), F.S.

<sup>65</sup> Section 403.813(1)(b)1.-5., F.S.

<sup>66</sup> Section 403.813(1)(b), F.S.

<sup>67</sup> Section 403.813(1)(s), F.S.



- Are wholly contained within a boat slip previously permitted under state law, 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;
- 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 state law;
- 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
- Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with state law, or other form of authorization issued by a local government.<sup>68</sup>

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.<sup>69</sup> Additionally, 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 s. 403.813, F.S., and to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in s. 403.813, F.S., or address subjects other than subjects addressed by the exemption criteria in this s. 403.813, F.S.<sup>70</sup>

### **Charter Counties**

In 1968, the electors of Florida granted local voters the power to adopt charters to govern their counties.<sup>71</sup> Charters are formal written documents that confer powers, duties, or privileges on the county. They resemble state or federal constitutions and they must be approved, along with any amendments, by the voters of a county. The establishment of charter government was designed to remove the resolution of local problems from the Legislature's busy agenda and to grant the county electorate greater control over their regional affairs.<sup>72</sup>

To date, there are 20 charter counties.<sup>73</sup> They are:

- Alachua
- Brevard
- Broward
- Charlotte

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<sup>68</sup> Section 403.813(1)(s)1.-5., F.S.

<sup>69</sup> Section 403.813(1)(s), F.S.

<sup>70</sup> *Id.*

<sup>71</sup> Florida Association of Counties, *Charter County Information*, <https://www.fl-counties.com/charter-county-information> (last visited Jan. 18, 2022).

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

- Clay
- Columbia
- Duval
- Hillsborough
- Lee
- Leon
- Miami-Dade
- Orange
- Osceola
- Palm Beach
- Pinellas
- Polk
- Sarasota
- Seminole
- Volusia
- Wakulla<sup>74</sup>

### **Manatee Protection Plans**

The Florida Manatee Sanctuary Act<sup>75</sup> provides that in order to protect manatees and manatee habitat, certain Florida counties are required to develop manatee protection plans (MPPs).<sup>76</sup> An MPP is a county specific management plan developed, approved and used by federal, state, and local governments to ensure the long term protection of manatees and their habitat within what is defined as the county's boundaries.<sup>77</sup>

Thirteen counties have adopted MPPs.<sup>78</sup> They are:

- Brevard
- Broward
- Charlotte
- Citrus
- City of Jacksonville (Duval)
- Clay
- Collier
- Flagler
- Indian River
- Lee
- Martin
- Miami-Dade
- Palm Beach

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<sup>74</sup> *Id.*

<sup>75</sup> Section 379.2431(2), F.S.

<sup>76</sup> Section 379.2431(2)(t), F.S.

<sup>77</sup> Fish and Wildlife Conservation Commission, *Manatee Protection Plans – MPPs*, <https://myfwc.com/wildlifehabitats/wildlife/manatee/protection-plans/> (last visited Jan. 18, 2022).

<sup>78</sup> *Id.*

- Sarasota
- St. Lucie
- Volusia<sup>79</sup>

### Local Pollution Control Programs

Section 403.182, F.S., provides that each county and municipality (or any combination thereof) may establish and administer a local pollution control program, so long as it complies with all other provisions of the Florida Air and Water Pollution Control Act (FAWPCA).<sup>80</sup> All local pollution control programs must:<sup>81</sup>

- Be approved by DEP as adequate to meet the requirements of the FAWPCA and any applicable rules and regulations pursuant thereto;
- Provide by ordinance, regulation, or local law for requirements compatible with, or stricter or more extensive than those imposed by the FAWPCA and regulations issued thereunder;
- Provide for the enforcement of such requirements by appropriate administrative and judicial process; and
- Provide for administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its program.

If DEP determines that a local pollution control program is inadequate to prevent and control pollution, or is being administered in a manner inconsistent with the requirements of the FAWPCA, it may require necessary corrective measures.<sup>82</sup> If these corrective measures are not implemented, DEP may reassume implementation of the FAWPCA within the jurisdiction.<sup>83</sup> Each local pollution control program must cooperate with and assist DEP in carrying out its powers, duties, and functions.<sup>84</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill provides that the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) may grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under the mitigation banking statute 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 chapters 253 and 258, F.S. The bill also provides that it does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs, upon meeting the public interest criteria under chapter 253 and 258, F.S.

**Section 2** of the bill directs the Department of Environmental Protection (DEP) to adopt and modify rules adopted pursuant to the mitigation banking and additional surface waters and wetlands criteria statutes to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation permitted under those provisions. DEP,

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<sup>79</sup> *Id.*

<sup>80</sup> Section 403.182, F.S.; *see also* ch. 67-436, s. 2, Laws of Fla. (identifying the short title of the act).

<sup>81</sup> Section 403.182(1), F.S.

<sup>82</sup> *See* s. 403.182(4), F.S.

<sup>83</sup> *See id.*

<sup>84</sup> Section 403.182(10), F.S.

in consultation with the water management districts, must include the rulemaking in existing active rulemaking, or must complete rule development by June 30, 2023.

**Section 3** of the bill amends the criteria to qualify for the permitting exemption in s. 403.813(1)(b), F.S., applicable to the installation and repair of certain mooring pilings, dolphins, piers, and docking facilities, as follows:

- In connection with the requirement that the dock be the sole dock constructed pursuant to the 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 per parcel or lot[,]” the bill revises the references to “a parcel of land or individual lot” to include a recorded easement as well.
- It provides that docks qualifying for the permitting exemption must be granted authorization for use of submerged lands upon approval by the Board of Trustees.

The bill also amends the permitting exemption in s. 403.813(s), F.S., applicable to the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, as follows:

- It amends the exemption to create a presumption of compliance with any requirement to minimize adverse environmental impacts, where the structure in question complies with the exemption criteria and is associated with an exempt or permitted dock on a parcel of land.
- It revises the exemption such that local governments no longer have the option of requiring a permit – instead, they may only require a one-time registration as necessary – for floating vessel platforms associated with docking structures to ensure compliance.
- It revises the exemption such that local governments can no longer use the one-time registration process to ensure compliance with local ordinances, codes, or regulations relating to building and zoning, but instead can only use one-time registration to ensure compliance with electrical or plumbing codes that are no more stringent than the listed exemption criteria or address other subjects other than the subjects addressed by the listed exemption criteria.

The bill also defines the term “local government,” as used in the bill, as including a charter county, a county that is required to implement a manatee protection plan pursuant to state law, or a county or municipality that establishes and administers a local pollution control program under state law.

**Section 4** provides that 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:

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:**

Ordinarily, an “easement” (new law) would overlay a “parcel of land or individual lot” (existing law). It is unclear what change the addition of this language would make. Additionally, docks qualifying for the permitting exemption are granted authorization for use of submerged lands upon approval by the Board of Trustees under existing law (submerged lands are addressed in ch. 253, F.S.). It is unclear what change the addition of this language would make. It may be that the changes to law proposed in s. 403.813, F.S., should be clarified to ensure the intent of the bill is achieved.

The use of the word “includes” in the explanation of “local government” in s. 403.813(1)(s), F.S., could be ambiguous regarding if it is an inclusive or exclusive list. If the intent is to make it an inclusive list adding “includes, ‘but not limited to’” would make the language clearer.

**VIII. Statutes Affected:**

This bill substantially amends sections 253.03 and 403.813 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:**

- Provides that the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) may grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under, and meet the public interest criteria in, state law.
- Provides that the bill does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs upon meeting the public interest criteria.
- Directs DEP to adopt and modify rules to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation.
- Provides that docks authorized under the permitting exception in s. 403.813(1)(b), F.S., for the installation and repair of certain mooring pilings and dolphins, piers, and recreational docking facilities, must be granted authorization for the use of submerged lands upon approval by the Board of Trustees.
- Provides that floating vessel platform or floating boat lift structures authorized under the permitting exception for them in s. 403.813(1)(s), F.S., when they are associated with a dock on a parcel of land and comply with the criteria listed, create a presumption of compliance with any requirement to minimize adverse environmental impacts.
- Revises existing law which authorizes local governments to..... to permit local governments, as defined in the bill, to require only a one-time registration of certain floating vessel platforms to ensure compliance with listed exemption criteria or with local electrical or plumbing codes that are no more stringent than the exemption criteria or address other subjects.
- Defines the term “local government” as used in s. 403.813(1)(s), F.S., as including a charter county, a county that is required to implement a manatee protection plan pursuant to state law, or a county or municipality that establishes and administers a local pollution control program under state law.

**B. Amendments:**

None.



CS/HB 349

2022

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

CS/HB 349

2022

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.<sup>1</sup> 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.<sup>2</sup>

##### *ERP Exceptions*

Current law provides exceptions from ERP<sup>3</sup> permitting for certain types of projects.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

##### *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.<sup>8</sup> 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

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<sup>1</sup> 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).

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

<sup>3</sup> See chs. 373 and 403, F.S.

<sup>4</sup> Section 403.813(1), F.S.

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

<sup>6</sup> *Id.*

<sup>7</sup> Section 403.813(1), F.S.

<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup>

#### Environmental Impact Mitigation

##### *Mitigation Regulations*

Mitigation serves as the third step in a sequence of permitting actions<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup> 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

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

<sup>10</sup> *Id.*

<sup>11</sup> 40 C.F.R. § 230.

<sup>12</sup> EPA, *Wetlands Compensatory Mitigation*, available at [https://www.epa.gov/sites/production/files/2015-08/documents/compensatory\\_mitigation\\_factsheet.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/compensatory_mitigation_factsheet.pdf) (last visited Nov. 19, 2021).

<sup>13</sup> 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.<sup>14</sup>

### *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.<sup>15</sup>

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.<sup>16</sup>

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.<sup>17</sup>

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.<sup>18</sup> 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.<sup>19</sup> The banker is required to demonstrate continuous fiscal responsibility until all of the permit conditions are completely satisfied and approved for release by DEP.<sup>20</sup> Further, the financial responsibility mechanisms must guarantee that the banker will perform all of its obligations under the permit.<sup>21</sup>

### Seagrasses

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<sup>14</sup> 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).

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

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

<sup>17</sup> *Id.*; see also r. 62-340.700, F.A.C.

<sup>18</sup> Rule 62-340.700, F.A.C.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

Seagrasses are grass-like flowering plants that live completely submerged in marine and estuarine waters.<sup>22</sup> Seagrasses occur in protected bays and lagoons as well as in deeper waters along the continental shelf in the Gulf of Mexico.<sup>23</sup> The depth at which seagrasses occur is limited by water clarity because most species require high levels of light.<sup>24</sup> 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.<sup>25</sup>

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.<sup>26</sup> This duty extends to the preservation and regeneration of seagrass as an essential ecosystem for Florida's oceans, estuaries, and shorelines.<sup>27</sup> Current law requires the Board to manage state-owned lands in a manner that serves the public interest.<sup>28</sup>

### 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.<sup>29</sup> 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.<sup>30</sup> Additionally, the private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.<sup>31</sup> 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.<sup>32</sup> 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.<sup>33</sup>

### **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.

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

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Section 253.03, F.S.

<sup>27</sup> Section 253.04(3)(a), F.S.

<sup>28</sup> Section 253.034, F.S.

<sup>29</sup> 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).

<sup>30</sup> Art. X, Sec. 11, FLA. CONST.

<sup>31</sup> Art. X, Sec. 11, FLA. CONST.

<sup>32</sup> Section 253.12, F.S.

<sup>33</sup> 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.

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

2022238\_\_

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

35-00383-22

2022238\_\_

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.—

35-00383-22

2022238\_\_

(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.

35-00383-22

2022238\_\_

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*).

35-00383-22

2022238\_\_

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

HB711

2022

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;



HB711

2022

providing an effective date.

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

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

HB711

2022

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

HB711

2022

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

HB711

2022

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-

HB711

2022

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.

2022494e1

1                   A bill to be entitled  
2     An act relating to the Fish and Wildlife Conservation  
3     Commission; amending s. 259.105, F.S.; requiring land  
4     management agencies to consider, in consultation with  
5     the commission, as part of certain state land  
6     management plans, the feasibility of using portions of  
7     such lands as gopher tortoise recipient sites;  
8     requiring the agencies to consult with the commission  
9     on required feasibility assessments and the  
10    implementation of management strategies; requiring the  
11    commission to work with the land management agencies  
12    to identify a specified number of sites; providing  
13    gopher tortoise recipient site permit application  
14    requirements; specifying permit timeframe  
15    requirements; amending ss. 327.352 and 327.35215,  
16    F.S.; revising the notices a person must be given for  
17    failure to submit to certain tests for alcohol,  
18    chemical substances, or controlled substances; making  
19    technical changes; amending s. 327.371, F.S.;  
20    authorizing individuals, when participating in certain  
21    athletic team practices or competitions, to operate a  
22    human-powered vessel within the marked channel of the  
23    Florida Intracoastal Waterway under certain  
24    circumstances; requiring the commission to be notified  
25    of any such competition; providing notice  
26    requirements; amending s. 327.4107, F.S.; revising the  
27    vessel conditions that an officer of the commission or  
28    a law enforcement agency may use to determine that a  
29    vessel is at risk of becoming derelict; amending s.

2022494e1

327.46, F.S.; prohibiting municipalities and counties from designating certain waters adjacent to designated public bathing beaches or swim areas as vessel exclusion zones; repealing s. 376.15, F.S., relating to derelict vessels and the relocation and removal of such vessels from the waters of this state; amending s. 379.101, F.S.; revising the definitions of the terms "marine fish" and "saltwater fish"; amending s. 705.101, F.S.; revising the definition of the term "abandoned property" to include vessels declared to be a public nuisance; amending s. 705.103, F.S.; clarifying the notice requirements and procedures for vessels declared to be public nuisances; conforming a provision to changes made by the act; amending s. 823.11, F.S.; making technical changes; authorizing the commission to establish a program to provide grants to local governments for certain actions regarding derelict vessels and those declared to be a public nuisance; specifying sources for the funds to be used, subject to an appropriation; authorizing the commission to use funds not awarded as grants for certain purposes; requiring the commission to adopt rules for the grant applications and the criteria for allocating the funds; conforming provisions to changes made by the act; amending s. 934.50, F.S.; providing that all employees of the commission or the Florida Forest Service may operate drones for specified purposes; amending ss. 327.04, 328.09, 328.72, and 376.11, F.S.; conforming provisions to changes made by

2022494e1

the act; repealing s. 25, chapter 2021-184, Laws of Florida, relating to derelict vessels; reenacting s. 327.73(1)(dd), F.S., relating to noncriminal boating infractions, to incorporate the amendment made to s. 327.371, F.S., in a reference thereto; reenacting ss. 125.01(4) and 379.2412, F.S., relating to powers and duties of legislative and governing bodies of counties and state preemption of the regulating of taking or possessing saltwater fish, respectively, to incorporate the amendment made to s. 379.101, F.S., in references thereto; providing effective dates.

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

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

259.105 The Florida Forever Act.—

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

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

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



2022494e1

88 diminishment of wetlands, forests, working landscapes, and  
89 coastal open space.

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

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

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

114 6. The needs of urban, suburban, and small communities in  
115 the state for high-quality outdoor recreational opportunities,  
116 greenways, trails, and open space have not been fully met by

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117 previous acquisition programs. Through such programs as the  
118 Florida Communities Trust and the Florida Recreation Development  
119 Assistance Program, the state shall place additional emphasis on  
120 acquiring, protecting, preserving, and restoring open space,  
121 ecological greenways, and recreation properties within urban,  
122 suburban, and rural areas where pristine natural communities or  
123 water bodies no longer exist because of the proximity of  
124 developed property.

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

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

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

2022494e1

146 and the restoration of natural water storage, flow, and  
147 recharge.

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

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

2022494e1

objectives of imperiled species management for conservation, recreation, or both, consistent with the land management plan without restricting other uses identified in the management plan. It is also the intent of the Legislature that of the proceeds distributed pursuant to subsection (3), additional consideration be given to acquisitions that achieve a combination of conservation goals, including the restoration, enhancement, management, or repopulation of habitat for imperiled species. The council, in addition to the criteria in subsection (9), shall give weight to projects that include acquisition, restoration, management, or repopulation of habitat for imperiled species. The term "imperiled species" as used in this chapter and chapter 253, means plants and animals that are federally listed under the Endangered Species Act, or state-listed by the Fish and Wildlife Conservation Commission or the Department of Agriculture and Consumer Services. As part of the state's role, all state lands that have imperiled species habitat must ~~shall~~ include as a consideration in management plan development the restoration, enhancement, management, and repopulation of such habitats.

a. Each lead land managing agency shall:

(I) In consultation with the Fish and Wildlife Conservation Commission, 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 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

2022494e1

204 management plan must contain a component or section prepared by  
205 a qualified wildlife biologist which assesses the feasibility of  
206 managing the site as a recipient site for gopher tortoises,  
207 consistent with the rules of the commission.

208 (II) Consult with the commission on feasibility assessments  
209 and implementation of gopher tortoise management.

210 b. State lands may be used as gopher tortoise recipient  
211 sites only if there are fewer than three permitted private  
212 recipient sites available for gopher tortoise relocations which  
213 are actively accepting gopher tortoise relocations. The  
214 commission shall work with each state land management agency to  
215 identify at least nine sites on state lands which are feasible  
216 for use as gopher tortoise recipient sites. The lead land  
217 management agencies of such identified sites must submit a  
218 gopher tortoise recipient site permit application to the  
219 commission by December 31, 2022, and the sites must be permitted  
220 and ready to accept relocated gopher tortoises by July 1, 2023.  
221 If the commission does not approve or deny a complete gopher  
222 tortoise recipient site permit application within 45 days after  
223 receipt of the application, the application shall be deemed  
224 approved.

225 c. ~~In addition,~~ The lead land managing agency of such state  
226 lands may use fees received from public or private entities for  
227 projects to offset adverse impacts to imperiled species or their  
228 habitat in order to restore, enhance, manage, repopulate, or  
229 acquire land and to implement land management plans developed  
230 under s. 253.034 or a land management prospectus developed and  
231 implemented under this chapter. Such fees shall be deposited  
232 into a foundation or fund created by each land management agency

2022494e1

under s. 379.223, s. 589.012, or s. 259.032(9)(c), to be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.

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

(b) The Legislature recognizes that acquisition of lands in fee simple is only one way to achieve the aforementioned goals and encourages the use of less-than-fee interests, other techniques, and the development of creative partnerships between governmental agencies and private landowners. Such partnerships may include those that advance the restoration, enhancement, management, or repopulation of imperiled species habitat on state lands as provided for in subparagraph (a)11. Easements acquired pursuant to s. 570.71(2)(a) and (b), land protection agreements, and nonstate funded tools such as rural land stewardship areas, sector planning, gopher tortoise recipient sites, and mitigation should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection at a lower financial cost to the public, and to provide private landowners with the opportunity to enjoy and benefit from their property.

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

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manner. In order to protect the public health and safety, it is essential that a lawful and effective means of reducing the incidence of boating while impaired or intoxicated be established. Therefore, a person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by operating such vessel, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was operating a vessel while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was operating the vessel within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath under this chapter will result in a civil penalty of \$500, and ~~shall also be told~~ that if he or she refuses to submit to a lawful test of his or her breath and he or she has been previously fined under s. 327.35215 or ~~has previously had~~ his or her driving privilege has been previously ~~driver license~~ suspended for refusal to submit to any lawful test of his or her breath, urine, or blood, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a

2022494e1

291 chemical or physical breath test upon the request of a law  
292 enforcement officer as provided in this section is admissible  
293 into evidence in any criminal proceeding.

294 2. A person who accepts the privilege extended by the laws  
295 of this state of operating a vessel within this state is, by  
296 operating such vessel, deemed to have given his or her consent  
297 to submit to a urine test for the purpose of detecting the  
298 presence of chemical substances as set forth in s. 877.111 or  
299 controlled substances if the person is lawfully arrested for any  
300 offense allegedly committed while the person was operating a  
301 vessel while under the influence of chemical substances or  
302 controlled substances. The urine test must be incidental to a  
303 lawful arrest and administered at a detention facility or any  
304 other facility, mobile or otherwise, which is equipped to  
305 administer such tests at the request of a law enforcement  
306 officer who has reasonable cause to believe such person was  
307 operating a vessel within this state while under the influence  
308 of chemical substances or controlled substances. The urine test  
309 must ~~shall~~ be administered at a detention facility or any other  
310 facility, mobile or otherwise, which is equipped to administer  
311 such test in a reasonable manner that will ensure the accuracy  
312 of the specimen and maintain the privacy of the individual  
313 involved. The administration of a urine test does not preclude  
314 the administration of another type of test. The person shall be  
315 told that his or her failure to submit to any lawful test of his  
316 or her urine under this chapter will result in a civil penalty  
317 of \$500, and ~~shall also be told~~ that if he or she refuses to  
318 submit to a lawful test of his or her urine and he or she has  
319 been previously fined under s. 327.35215 or ~~has previously had~~



2022494e1

his or her driving privilege has been previously ~~driver license~~  
suspended for refusal to submit to any lawful test of his or her  
breath, urine, or blood, he or she commits a misdemeanor of the  
first degree, punishable as provided in s. 775.082 or s.  
775.083, in addition to any other penalties provided by law. The  
refusal to submit to a urine test upon the request of a law  
enforcement officer as provided in this section is admissible  
into evidence in any criminal proceeding.

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

2022494e1

349 a law enforcement officer is ~~shall be~~ admissible in evidence in  
350 any criminal proceeding.

351 Section 3. Subsections (1) and (2) of section 327.35215,  
352 Florida Statutes, are amended to read:

353 327.35215 Penalty for failure to submit to test.—

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

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

370 Section 4. Present paragraph (c) of subsection (1) of  
371 section 327.371, Florida Statutes, is redesignated as paragraph  
372 (d), and a new paragraph (c) is added to that subsection, to  
373 read:

374 327.371 Human-powered vessels regulated.—

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

2022494e1

378       (c) When participating in practices or competitions for  
379 interscholastic, intercollegiate, intramural, or club rowing  
380 teams affiliated with an educational institution identified in  
381 s. 1000.21, s. 1002.01(2), s. 1003.01(2), s. 1005.02(4), or s.  
382 1005.03(1)(d), if the adjacent area outside of the marked  
383 channel is not suitable for such practice or competition. The  
384 teams must use their best efforts to make use of the adjacent  
385 area outside of the marked channel. The commission must be  
386 notified in writing of the details of any such competition, and  
387 the notification must include, but need not be limited to, the  
388 date, time, and location of the competition.

389       Section 5. Paragraph (f) is added to subsection (2) of  
390 section 327.4107, Florida Statutes, to read:

391       327.4107 Vessels at risk of becoming derelict on waters of  
392 this state.—

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

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

399       Section 6. Paragraph (b) of subsection (1) of section  
400 327.46, Florida Statutes, is amended to read:

401       327.46 Boating-restricted areas.—

402       (1) Boating-restricted areas, including, but not limited  
403 to, restrictions of vessel speeds and vessel traffic, may be  
404 established on the waters of this state for any purpose  
405 necessary to protect the safety of the public if such  
406 restrictions are necessary based on boating accidents,

2022494e1

visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.

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

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

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

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

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

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

a. Within 300 feet of any bridge fender system.

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

2022494e1

than 100 feet.

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

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

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

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

a. Designated as a public bathing beach or swim area, except that such areas may not be created on waters that include any portion of the Florida Intracoastal Waterway or that are within 100 feet of the marked channel of the Florida Intracoastal Waterway.

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

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

Section 7. Section 376.15, Florida Statutes, is repealed.

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

2022494e1

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 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:

2022494e1

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

500  
501 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
502 PROPERTY. This property, to wit: ...(setting forth brief  
503 description)... is unlawfully upon public property known as  
504 ...(setting forth brief description of location)... and must be  
505 removed within 5 days; otherwise, it will be removed and  
506 disposed of pursuant to chapter 705, Florida Statutes. The owner  
507 will be liable for the costs of removal, storage, and  
508 publication of notice. Dated this: ...(setting forth the date of  
509 posting of notice)..., signed: ...(setting forth name, title,  
510 address, and telephone number of law enforcement officer)....

511  
512       b. A derelict vessel or a vessel declared a public nuisance  
513 pursuant to s. 327.73(1)(aa) is present on the waters of this  
514 state, the officer shall cause a notice to be placed upon such  
515 vessel in substantially the following form:

516  
517 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
518 VESSEL. This vessel, to wit: ...(setting forth brief  
519 description)... has been determined to be ...(derelict or a  
520 public nuisance)... and is unlawfully upon waters of this state  
521 ...(setting forth brief description of location)... and must be  
522 removed within 21 days; otherwise, it will be removed and

2022494e1

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

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



2022494e1

552 receipt requested, to the owner and to the lienholder, if any,  
553 except that a law enforcement officer who has issued a citation  
554 for a violation of ~~s. 376.15~~ or s. 823.11 to the owner of a  
555 derelict vessel is not required to mail a copy of the notice by  
556 certified mail, return receipt requested, to the owner. For a  
557 derelict vessel or a vessel declared a public nuisance pursuant  
558 to s. 327.73(1)(aa), the mailed notice must inform the owner or  
559 responsible party that he or she has a right to a hearing to  
560 dispute the determination that the vessel is derelict or  
561 otherwise in violation of the law. If a request for a hearing is  
562 made, a state agency shall follow the processes set forth in s.  
563 120.569. Local governmental entities shall follow the processes  
564 set forth in s. 120.569, except that a local judge, magistrate,  
565 or code enforcement officer may be designated to conduct such a  
566 hearing. If, at the end of 5 days after posting the notice in  
567 sub-subparagraph 1.a., or at the end of 21 days after posting  
568 the notice in sub-subparagraph 1.b., and mailing such notice, if  
569 required, the owner or any person interested in the lost or  
570 abandoned article or articles described has not removed the  
571 article or articles from public property or shown reasonable  
572 cause for failure to do so, and, in the case of a derelict  
573 vessel or a vessel declared a public nuisance pursuant to s.  
574 327.73(1)(aa), has not requested a hearing in accordance with  
575 this section, the following shall apply:

576       a. For abandoned property other than a derelict vessel or a  
577 vessel declared a public nuisance pursuant to s. 327.73(1)(aa),  
578 the law enforcement agency may retain any or all of the property  
579 for its own use or for use by the state or unit of local  
580 government, trade such property to another unit of local

2022494e1

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,

2022494e1

610 storage, ~~and destruction~~, and disposal of such property, less  
611 any salvage value obtained by disposal of the property. Upon  
612 final disposition of the property, the law enforcement officer  
613 or representative of the law enforcement agency or other  
614 governmental entity shall notify the owner or in the case of a  
615 derelict vessel or vessel declared a public nuisance pursuant to  
616 s. 327.73(1)(aa), the owner or other party determined to be  
617 legally responsible, if known, of the amount owed. In the case  
618 of an abandoned vessel or motor vehicle, any person who neglects  
619 or refuses to pay such amount is not entitled to be issued a  
620 certificate of registration for such vessel or motor vehicle, or  
621 any other vessel or motor vehicle, until such costs have been  
622 paid. A person who has neglected or refused to pay all costs of  
623 removal, storage, disposal, and destruction of a vessel or motor  
624 vehicle as provided in this section, after having been provided  
625 written notice via certified mail that such costs are owed, and  
626 who applies for and is issued a registration for a vessel or  
627 motor vehicle before such costs have been paid in full commits a  
628 misdemeanor of the first degree, punishable as provided in s.  
629 775.082 or s. 775.083. The law enforcement officer or  
630 representative of the law enforcement agency or other  
631 governmental entity shall supply the Department of Highway  
632 Safety and Motor Vehicles with a list of persons whose vessel  
633 registration privileges and motor vehicle privileges have been  
634 revoked under this subsection. The department or a person acting  
635 as an agent of the department may not issue a certificate of  
636 registration to a person whose vessel and motor vehicle  
637 registration privileges have been revoked, as provided by this  
638 subsection, until such costs have been paid.

2022494e1

639       Section 11. Effective July 1, 2023, paragraph (a) of  
640 subsection (2) of section 705.103, Florida Statutes, as amended  
641 by chapters 2019-76 and 2021-184, Laws of Florida, is amended to  
642 read:

643       705.103 Procedure for abandoned or lost property.—

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

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

652  
653 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
654 PROPERTY. This property, to wit: ...(setting forth brief  
655 description)... is unlawfully upon public property known as  
656 ...(setting forth brief description of location)... and must be  
657 removed within 5 days; otherwise, it will be removed and  
658 disposed of pursuant to chapter 705, Florida Statutes. The owner  
659 will be liable for the costs of removal, storage, and  
660 publication of notice. Dated this: ...(setting forth the date of  
661 posting of notice)..., signed: ...(setting forth name, title,  
662 address, and telephone number of law enforcement officer)....  
663

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

2022494e1

668  
669 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
670 VESSEL. This vessel, to wit: ...(setting forth brief description  
671 of location)... has been determined to be ...(derelict or a  
672 public nuisance)... and is unlawfully upon the waters of this  
673 state ...(setting forth brief description of location)... and  
674 must be removed within 21 days; otherwise, it will be removed  
675 and disposed of pursuant to chapter 705, Florida Statutes. The  
676 owner and other interested parties have the right to a hearing  
677 to challenge the determination that this vessel is derelict or  
678 otherwise in violation of the law. Please contact ...(contact  
679 information for person who can arrange for a hearing in  
680 accordance with this section)... The owner or the party  
681 determined to be legally responsible for the vessel being upon  
682 the waters of this state in a derelict condition or as a public  
683 nuisance will be liable for the costs of removal, destruction,  
684 and disposal if this vessel is not removed by the owner. Dated  
685 this: ...(setting forth the date of posting of notice)...,  
686 signed: ...(setting forth name, title, address, and telephone  
687 number of law enforcement officer)....

688  
689 2. The notices required under subparagraph 1. may not be  
690 less than 8 inches by 10 inches and must ~~shall~~ be sufficiently  
691 weatherproof to withstand normal exposure to the elements. In  
692 addition to posting, the law enforcement officer shall make a  
693 reasonable effort to ascertain the name and address of the  
694 owner. If such is reasonably available to the officer, she or he  
695 shall mail a copy of such notice to the owner on or before the  
696 date of posting. If the property is a motor vehicle as defined

2022494e1

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

2022494e1

to s. 327.73(1)(aa), has not requested a hearing in accordance with this section, the following shall apply:

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

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

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

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

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

Section 12. Present subsections (4), (5), and (6) of section 823.11, Florida Statutes, are redesignated as

2022494e1

subsections (5), (6), and (7), respectively, a new subsection (4) is added to that section, and subsection (1), paragraph (c) of subsection (2), subsection (3), and present subsections (5) and (6) of that section are amended, to read:

823.11 Derelict vessels; relocation or removal; penalty.—

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

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

(b) "Derelict vessel" means a vessel, as defined in s. 327.02, that is:

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

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

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

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

(I) The steering system;

(II) The propulsion system; or



2022494e1

(III) The exterior hull integrity.

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

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

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

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

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

(2)

(c) The additional time provided in subparagraph (b)2. for an owner or responsible party to remove a derelict vessel from the waters of this state or to repair and remedy the vessel's derelict condition ~~This subsection~~ does not apply to a vessel that was derelict upon the waters of this state before the stated accident or event.

(3) The commission, an officer of the commission, or a law enforcement agency or officer specified in s. 327.70 may

2022494e1

813 relocate, remove, and store, ~~destroy, or dispose of~~ or cause to  
814 be relocated, removed, and stored, ~~destroyed, or disposed of~~ a  
815 derelict vessel from waters of this state as defined in s.  
816 327.02 if the derelict vessel obstructs or threatens to obstruct  
817 navigation or in any way constitutes a danger to the  
818 environment, property, or persons. The commission, an officer of  
819 the commission, or any other law enforcement agency or officer  
820 acting pursuant to this subsection to relocate, remove, and  
821 store, ~~destroy, dispose of~~ or cause to be relocated, removed,  
822 and stored, ~~destroyed, or disposed of~~ a derelict vessel from  
823 waters of this state shall be held harmless for all damages to  
824 the derelict vessel resulting from such action unless the damage  
825 results from gross negligence or willful misconduct.

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

831 ~~(b)~~ All costs, including costs owed to a third party,  
832 incurred by the commission, another law enforcement agency, or a  
833 governmental subdivision, when the governmental subdivision has  
834 received authorization from a law enforcement officer or agency,  
835 in the relocation, removal, storage, destruction, or disposal of  
836 a derelict vessel are recoverable against the vessel owner or  
837 the party determined to be legally responsible for the vessel  
838 being upon the waters of this state in a derelict condition. The  
839 Department of Legal Affairs shall represent the commission in  
840 actions to recover such costs. As provided in s. 705.103(4), a  
841 person who neglects or refuses to pay such costs may not be

2022494e1

842 issued a certificate of registration for such vessel or for any  
843 other vessel or motor vehicle until such costs have been paid. A  
844 person who has neglected or refused to pay all costs of removal,  
845 storage, destruction, or disposal of a derelict vessel as  
846 provided in this section, after having been provided written  
847 notice via certified mail that such costs are owed, and who  
848 applies for and is issued a registration for a vessel or motor  
849 vehicle before such costs have been paid in full commits a  
850 misdemeanor of the first degree, punishable as provided in s.  
851 775.082 or s. 775.083.

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

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

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

869 (c) The commission may establish a program to provide  
870 grants to local governments for the removal, storage,

2022494e1

871 destruction, and disposal of derelict vessels from the waters of  
872 this state. This grant funding may also be used for the removal,  
873 storage, destruction, and disposal of vessels declared a public  
874 nuisance pursuant to s. 327.73(1)(aa). The program must be  
875 funded from the Marine Resources Conservation Trust Fund or the  
876 Florida Coastal Protection Trust Fund. Notwithstanding s.  
877 216.181(11), funds available for these grants may only be  
878 authorized by appropriations acts of the Legislature. In a given  
879 fiscal year, if all funds appropriated pursuant to this  
880 paragraph are not requested by and granted to local governments  
881 for the removal, storage, destruction, and disposal of derelict  
882 vessels or vessels declared a public nuisance pursuant to s.  
883 327.73(1)(aa) by the end of the third quarter, the Fish and  
884 Wildlife Conservation Commission may use the remainder of the  
885 funds to remove, store, destroy, and dispose of, or to pay  
886 private contractors to remove, store, destroy, and dispose of,  
887 derelict vessels or vessels declared a public nuisance pursuant  
888 to s. 327.73(1)(aa). The commission shall adopt by rule  
889 procedures for local governments to submit a grant application  
890 and criteria for allocating available funds. Such criteria must  
891 include, at a minimum, the following:

892 1. The number of derelict vessels within the jurisdiction  
893 of the applicant.

894 2. The threat posed by such vessels to public health or  
895 safety, the environment, navigation, or the aesthetic condition  
896 of the general vicinity.

897 3. The degree of commitment of the local government to  
898 maintain waters free of abandoned and derelict vessels and to  
899 seek legal action against those who abandon vessels in the

2022494e1

900 waters of this state as defined in s. 327.02.

901 (6)~~(5)~~ A person, firm, or corporation violating this  
902 section commits a misdemeanor of the first degree and shall be  
903 punished as provided by law. A conviction under this section  
904 does not bar the assessment and collection of a ~~the~~ civil  
905 penalty ~~provided in s. 376.16 for violation of s. 376.15.~~ The  
906 court having jurisdiction over the criminal offense,  
907 notwithstanding any jurisdictional limitations on the amount in  
908 controversy, may order the imposition of such civil penalty in  
909 addition to any sentence imposed for the first criminal offense.

910 (7)~~(6)~~ If an owner or a responsible party of a vessel  
911 determined to be derelict through an administrative or criminal  
912 proceeding has been charged by an officer of the commission or  
913 any law enforcement agency or officer as specified in s. 327.70  
914 under subsection (6) ~~(5)~~ for a violation of subsection (2) ~~or a~~  
915 ~~violation of s. 376.15(2),~~ a person may not reside or dwell on  
916 such vessel until the vessel is removed from the waters of the  
917 state permanently or returned to the waters of the state in a  
918 condition that is no longer derelict.

919 Section 13. Paragraph (p) of subsection (4) of section  
920 934.50, Florida Statutes, is amended to read:

921 934.50 Searches and seizure using a drone.—

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

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

2022494e1

929 Section 14. Section 327.04, Florida Statutes, is amended to  
930 read:

931 327.04 Rules.—The commission may adopt rules pursuant to  
932 ss. 120.536(1) and 120.54 to implement this chapter, the  
933 provisions of chapter 705 relating to vessels, and s. ss. 376.15  
934 ~~and~~ 823.11 conferring powers or duties upon it.

935 Section 15. Subsection (4) of section 328.09, Florida  
936 Statutes, is amended to read:

937 328.09 Refusal to issue and authority to cancel a  
938 certificate of title or registration.—

939 (4) The department may not issue a certificate of title to  
940 an applicant for a vessel that has been deemed derelict or a  
941 public nuisance by a law enforcement officer under s.  
942 327.73(1)(aa) or s. 376.15 or s. 823.11. A law enforcement  
943 officer must inform the department in writing, which may be  
944 provided by facsimile, e-mail ~~electronic mail~~, or other  
945 electronic means, of the vessel's derelict or public nuisance  
946 status and supply the department with the vessel title number or  
947 vessel identification number. The department may issue a  
948 certificate of title once a law enforcement officer has verified  
949 in writing, which may be provided by facsimile, e-mail  
950 ~~electronic mail~~, or other electronic means, that the vessel is  
951 no longer a derelict or public nuisance vessel.

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

954 Section 17. Paragraph (c) of subsection (15) of section  
955 328.72, Florida Statutes, is amended to read:

956 328.72 Classification; registration; fees and charges;  
957 surcharge; disposition of fees; fines; marine turtle stickers.—

2022494e1

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

2022494e1

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.

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



2022494e1

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 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

2022494e1

1045 does it prohibit the imposition of excise taxes by county  
1046 ordinance.

1047       Section 21. For the purpose of incorporating the amendment  
1048 made by this act to section 379.101, Florida Statutes, in a  
1049 reference thereto, section 379.2412, Florida Statutes, is  
1050 reenacted to read:

1051       379.2412 State preemption of power to regulate.—The power  
1052 to regulate the taking or possession of saltwater fish, as  
1053 defined in s. 379.101, is expressly reserved to the state. This  
1054 section does not prohibit a local government from prohibiting,  
1055 for reasons of protecting the public health, safety, or welfare,  
1056 saltwater fishing from real property owned by that local  
1057 government.

1058       Section 22. Except as otherwise expressly provided in this  
1059 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 494

INTRODUCER: Appropriations Committee; Environment and Natural Resources Committee; and  
Senator Hutson

SUBJECT: Fish and Wildlife Conservation Commission

DATE: January 31, 2022

REVISED: \_\_\_\_\_

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

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> The state has acquired more than 2.4 million acres since 1991 under the Preservation 2000 and the Florida Forever programs.<sup>4</sup>

### 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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> The

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<sup>1</sup> Chapter 99-247, Laws of Fla.

<sup>2</sup> 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).

<sup>3</sup> Section 259.105, F.S.

<sup>4</sup> 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](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.

<sup>5</sup> FLA. CONST. art. IV, s. 9.

<sup>6</sup> *Id.*; see also s. 379.102(1), F.S.

<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

### **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.<sup>10</sup> Operating a vessel in excess of a posted speed limit is a noncriminal infraction, for which the penalty is \$50.<sup>11</sup>

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

### **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.<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup> 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.<sup>17</sup>

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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.

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

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

<sup>10</sup> Section 327.33, F.S.

<sup>11</sup> Section 327.73(h), F.S.

<sup>12</sup> Section 327.50, F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Sections 316.1932(1)(a) and 327.352(1)(a), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Sections 316.1932(1)(c) and 327.352(1)(c), F.S.

<sup>17</sup> *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.<sup>18</sup> 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.<sup>19</sup>

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.<sup>20</sup> 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.<sup>21</sup>

### **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.<sup>22</sup>

Local governments have authority to establish boating-restricted areas by ordinance within the portion of the Florida Intracoastal Waterway within their jurisdiction.<sup>23</sup> 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.<sup>24</sup>

### **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

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<sup>18</sup> Sections 316.1932(1)(a) and (1)(c), F.S.

<sup>19</sup> *Id.*; s. 316.1939, F.S.

<sup>20</sup> Sections 327.352(1)(a) and (1)(c), F.S.

<sup>21</sup> *Id.*; s. 327.259, F.S.

<sup>22</sup> Section 327.46(1), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

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

### ***At-Risk Vessels***

Neglected or deteriorating vessels may not occupy the waters of this state.<sup>27</sup> 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.<sup>28</sup>

### ***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.<sup>29</sup> 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.<sup>30</sup>

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.<sup>31</sup> 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.<sup>32</sup>

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<sup>25</sup> Section 823.11(1)(b), F.S.

<sup>26</sup> Section 376.15, F.S.; s. 823.11(2), F.S.

<sup>27</sup> Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

<sup>28</sup> Section 327.4107, F.S.

<sup>29</sup> Section 327.73(1)(aa), F.S.; s. 327.4107(2), F.S.

<sup>30</sup> Section 327.4107(2), F.S.

<sup>31</sup> Section 327.73(1)(aa), F.S.; s. 823.11(3), F.S.

<sup>32</sup> Section 705.103(1)(b), F.S.

### ***Abandoned Vessels***

“Abandoned property”<sup>33</sup> 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.<sup>34</sup>

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.<sup>35</sup>

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.<sup>36</sup> 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.<sup>37</sup>

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.<sup>38</sup>

### ***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.<sup>39</sup> 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.<sup>40</sup>

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.<sup>41</sup> The FWC officers and other law enforcement agency officers or contractors who perform relocation or removal activities at

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<sup>33</sup> Section 705.101(3), F.S.

<sup>34</sup> Section 705.103(2), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> Section 705.103(4), F.S.

<sup>37</sup> *Id.*

<sup>38</sup> Section 327.60(5), F.S.

<sup>39</sup> Section 327.70, F.S.

<sup>40</sup> Section 376.15, F.S.; s. 823.11, F.S.

<sup>41</sup> 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.<sup>42</sup>

The costs incurred by the FWC or another law enforcement agency for relocating or removing a derelict vessel are recoverable against the vessel owner.<sup>43</sup> 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.<sup>44</sup>

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.<sup>45</sup> 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.<sup>46</sup> Pursuant to this, the FWC established the Derelict Vessel Removal Grant Program in 2019.<sup>47</sup> Grants are awarded based on a set of criteria outlined in FWC rules.<sup>48</sup>

### ***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.<sup>49</sup> Violations are punishable by imprisonment of no more than one year and a fine of up to \$1,000.<sup>50</sup> Further, such violation is punishable by a civil penalty of up to \$75,000 per violation per day.<sup>51</sup> Each day during any portion of which the violation occurs constitutes a separate offense.<sup>52</sup>

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.<sup>53</sup>

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<sup>42</sup> Section 823.11(3)(c), F.S.; s. 376.15(3)(c), F.S.

<sup>43</sup> Section 823.11(3)(a), F.S.; s. 376.15(3)(a), F.S.

<sup>44</sup> Section 705.103(4), F.S.

<sup>45</sup> Section 376.15, F.S.

<sup>46</sup> Section 376.15, F.S.

<sup>47</sup> 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.

<sup>48</sup> *Id.*

<sup>49</sup> 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.

<sup>50</sup> Sections 775.082(4)(a) and 775.083(1)(d), F.S.

<sup>51</sup> Sections 376.15(2) and 376.16(1), F.S.

<sup>52</sup> Section 376.16(1), F.S.

<sup>53</sup> 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.<sup>54</sup>

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.<sup>55</sup>

### 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.<sup>56</sup> The Florida Intracoastal Waterway is shown in the map below.<sup>57</sup>



<sup>54</sup> Section 327.73(1)(bb), F.S.

<sup>55</sup> Sections 327.73(1), 775.082, and 775.083, F.S.

<sup>56</sup> Section 327.02(15), F.S.

<sup>57</sup> 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](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.<sup>58</sup> 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.<sup>59</sup> 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.<sup>60</sup>

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.<sup>61</sup> Studies have shown that drones can efficiently and inexpensively cover a 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.<sup>62</sup>

### 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.

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<sup>58</sup> Section 934.50(1)(a), F.S.

<sup>59</sup> Section 934.50(3), F.S.

<sup>60</sup> Section 934.50(4)(p), F.S.

<sup>61</sup> 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 [federal capacities for edrr through technology innovation prepub 8.7.17.pdf \(doi.gov\)](#) (last visited Nov. 15 2021).

<sup>62</sup> *Id.*

**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 if the adjacent area outside of the marked channel is not suitable. The bill requires that teams use their best efforts to make use of the adjacent area outside of the marked channel.

**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 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.)

#### **CS/CS by Appropriations on January 27, 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.
- Allows that a person may 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 when the adjacent area outside of the marked channel is not suitable for use.
- Requires that teams use their best efforts to make use of the adjacent area.

#### **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.

CS/HB 323

2022

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, 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.

CS/HB 323

2022

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



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

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

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

determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition or as a public nuisance will be liable for the costs of removal, destruction, and disposal if this vessel is not removed by the owner. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)....

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

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

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

CS/HB 323

2022

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.

CS/HB 323

2022

(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~~

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

528     ~~(a)-(b)~~ All costs, including costs owed to a third party,  
529 incurred by the commission, another law enforcement agency, or a  
530 governmental subdivision, when the governmental subdivision has  
531 received authorization from a law enforcement officer or agency,  
532 in the relocation, removal, storage, destruction, or disposal of  
533 a derelict vessel are recoverable against the vessel owner or  
534 the party determined to be legally responsible for the vessel  
535 being upon the waters of this state in a derelict condition. The  
536 Department of Legal Affairs shall represent the commission in  
537 actions to recover such costs. As provided in s. 705.103(4), a  
538 person who neglects or refuses to pay such costs may not be  
539 issued a certificate of registration for such vessel or for any  
540 other vessel or motor vehicle until such costs have been paid. A  
541 person who has neglected or refused to pay all costs of removal,  
542 storage, destruction, or disposal of a derelict vessel as  
543 provided in this section, after having been provided written  
544 notice via certified mail that such costs are owed, and who  
545 applies for and is issued a registration for a vessel or motor  
546 vehicle before such costs have been paid in full commits a  
547 misdemeanor of the first degree, punishable as provided in s.  
548 775.082 or s. 775.083.

549     ~~(b)-(c)~~ A contractor performing such activities at the  
550 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.

626           Section 12. Section 327.04, Florida Statutes, is amended  
627 to read:

628           327.04 Rules.—The commission may adopt rules pursuant to  
629 ss. 120.536(1) and 120.54 to implement this chapter, the  
630 provisions of chapter 705 relating to vessels, and s. ss. 376.15  
631 ~~and~~ 823.11 conferring powers or duties upon it.

632           Section 13. Paragraphs (a) and (c) of subsection (1) of  
633 section 327.352, Florida Statutes, are amended to read:

634           327.352 Tests for alcohol, chemical substances, or  
635 controlled substances; implied consent; refusal.—

636           (1)(a)1. The Legislature declares that the operation of a  
637 vessel is a privilege that must be exercised in a reasonable  
638 manner. In order to protect the public health and safety, it is  
639 essential that a lawful and effective means of reducing the  
640 incidence of boating while impaired or intoxicated be  
641 established. Therefore, a person who accepts the privilege  
642 extended by the laws of this state of operating a vessel within  
643 this state is, by operating such vessel, deemed to have given  
644 his or her consent to submit to an approved chemical test or  
645 physical test including, but not limited to, an infrared light  
646 test of his or her breath for the purpose of determining the  
647 alcoholic content of his or her blood or breath if the person is  
648 lawfully arrested for any offense allegedly committed while the  
649 person was operating a vessel while under the influence of  
650 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

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



CS/HB 323

2022

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

CS/HB 323

2022

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	12 Y, 0 N	White	Pigott
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 may have an insignificant negative fiscal impact on the state that can be absorbed within existing resources.

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

# 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

It is unlawful to store, leave, or abandon<sup>4</sup> a derelict vessel in Florida.<sup>5</sup> Violations are punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.<sup>6</sup> 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.<sup>7</sup> Each day during any portion of which the violation occurs constitutes a separate offense.<sup>8</sup>

##### *At-risk Vessels*

Current law also prohibits vessels that are at risk of becoming derelict from anchoring, mooring, or occupying state waters.<sup>9</sup> 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.<sup>10</sup>

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

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

<sup>2</sup> Art. IV, s. 9, FLA. CONST.

<sup>3</sup> Section 823.11(1)(b), F.S.

<sup>4</sup> 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.

<sup>5</sup> Section 823.11(2), F.S.

<sup>6</sup> Sections 775.082(4)(a) and 775.083(1)(d), F.S.

<sup>7</sup> Section 376.16(1), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

<sup>10</sup> 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.<sup>11</sup>

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.<sup>12</sup>

#### *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.<sup>13</sup>

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.<sup>14</sup> Such law enforcement are also authorized to relocate or remove a vessel declared a public nuisance.<sup>15</sup>

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.<sup>16</sup> 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.<sup>17</sup>

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.<sup>18</sup>

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.<sup>19</sup> Grants are awarded based on a set of criteria outlined in FWC rules.<sup>20</sup> Removal or relocation of the vessel on private property is not eligible for grant funding.<sup>21</sup>

#### 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.<sup>22</sup>

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<sup>11</sup> Section 327.73(1)(aa), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> 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.

<sup>14</sup> Sections 376.15(3)(a) and 823.11(3), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 705.103(2)(a)(1)(b), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> Section 705.103(4), F.S.

<sup>19</sup> Section 376.15, F.S.

<sup>20</sup> Rule 68-1.003, F.A.C.

<sup>21</sup> 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).

<sup>22</sup> 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:<sup>23</sup>

- 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.<sup>24</sup>

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.<sup>25</sup>

#### Nonnative Plant and Animal Species

Nonnative<sup>26</sup> species are animals or plants living in Florida outside captivity or human cultivation that were not historically present in the state.<sup>27</sup> 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

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<sup>23</sup> Sections 327.46(1)(a) and (b), F.S.

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

<sup>25</sup> Section 327.02(15), F.S.

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

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

human cultivation.<sup>28</sup> 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.<sup>29</sup>

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.<sup>30</sup> 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.<sup>31</sup> To further manage invasive and nonnative species, FWC provides public education, exotic pet amnesty days to surrender nonnative pets to pre-qualified adopters,<sup>32</sup> 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.<sup>33</sup>

FWC's Upland Invasive Exotic Plant Management Program conducts invasive plant removal on public conservation lands throughout the state.<sup>34</sup> 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.<sup>35</sup> 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.<sup>36</sup>

### 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.<sup>37</sup>

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.<sup>38</sup> Drones can range vastly in size and weight and may be controlled manually or through an autopilot that uses a data link to

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<sup>28</sup> 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/FILES/WC/WC18600.pdf> (last visited Nov. 18, 2021).

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

<sup>30</sup> Section 379.231(1), F.S.

<sup>31</sup> Rule 68-5.005, F.A.C.

<sup>32</sup> 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.

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

<sup>34</sup> 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.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Section 934.50(2)(a), F.S.

<sup>38</sup> Section 330.41(2)(c), F.S.

connect the drone's pilot to the drone. Drones can also be equipped with infrared cameras<sup>39</sup> and "LADAR" (laser radar).<sup>40</sup>

### *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.<sup>41</sup> 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.<sup>42</sup>

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.<sup>43</sup>

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.<sup>44</sup>

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.<sup>45</sup>

### *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.<sup>46</sup> 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

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<sup>39</sup> 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](http://www.fas.org/sgp/crs/natsec/R42701.pdf) (last visited Nov. 18, 2021).

<sup>40</sup> 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).

<sup>41</sup> Sections 934.50(3)(a) and 934.50(4), F.S.

<sup>42</sup> Section 943.50(4)(c), F.S.

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

<sup>44</sup> Section 943.50(4)(p), F.S.

<sup>45</sup> Section 934.50(6), F.S.

<sup>46</sup> 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](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.<sup>47</sup> 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

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<sup>47</sup> *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:

The bill may have an insignificant negative fiscal impact on FWC for adopting a new rule. This impact can be absorbed within existing resources.

### **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.



271670

576-02375-22

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 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



271670

576-02375-22

after such a violation; authorizing the commission, beginning on a specified date, to revoke or refuse to issue permits for repeated violations; amending s. 327.73, F.S.; increasing fines for violations of certain boating regulations; providing fines for improper transfers of title and failures to update vessel registration information; authorizing certain fees and penalties deposited into the Marine Resources Conservation Trust Fund to be used for law enforcement purposes; amending s. 327.731, F.S.; imposing a fine for persons convicted of certain criminal or noncriminal infractions; providing for the deposit of such fines into the Marine Resources Conservation Trust Fund; requiring the commission to maintain a program to ensure compliance with certain boating safety education requirements; specifying requirements for the program; amending s. 328.03, F.S.; providing that an improper transfer of vessel title is subject to a civil penalty; amending s. 328.48, F.S.; requiring that the address provided in a vessel registration application and a certificate of registration be a physical residential or business address; authorizing the commission to accept post office box addresses in lieu of the physical residential or business address; providing that a person who fails to update his or her vessel registration information within a specified timeframe is subject to a civil penalty; providing an appropriation to, and authorizing positions for, the



271670

576-02375-22

commission to create an Illegal Boating Strike Team;  
providing the duties of the strike team; providing  
additional appropriations 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. All fines assessed and collected pursuant to this subsection shall be remitted by the clerk of the court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund to be used to enhance state and local law enforcement activities related to boating infractions. As used in this subsection, the terms "convicted" and "conviction" mean any judicial disposition other than acquittal or dismissal.

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

327.54 Liveries; safety regulations; penalty.—

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



271670

576-02375-22

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

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

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

97       (2) Beginning on January 1, 2023, a livery may not offer a  
98 vessel for lease or rent without first being issued a no-cost  
99 livery permit by the commission. The permit must be renewed  
100 annually. To qualify for issuance or renewal of a livery permit,  
101 an applicant must provide the commission with a list of all  
102 vessels offered by the livery for lease or rent by another, have  
103 valid insurance pursuant to paragraph (3)(j), have an amount of  
104 United States Coast Guard-approved lawful personal floatation  
105 devices on site sufficient to accommodate the capacity of all  
106 vessels offered by the livery for rent or lease by another, have  
107 on site all safety equipment required by s. 327.50 and the Code  
108 of Federal Regulations sufficient to equip all vessels offered  
109 by the livery for rent or lease by another, and display the  
110 information required by paragraph (3)(f). If, before the annual  
111 renewal of the permit, the information required by this  
112 subsection changes, the livery must provide the commission with  
113 the updated information within 10 days after the change.





271670

576-02375-22

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

116       (b) A person who violates this subsection commits a  
117 misdemeanor of the first degree, punishable as provided in s.  
118 775.082 or s. 775.083.

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

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

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

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

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

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

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

141           4. Local characteristics of the waterway where the vessel  
142 will be operated, such as navigational hazards, the presence of



271670

576-02375-22

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 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



271670

576-02375-22

172 this state which insures the livery and renter against any  
173 accident, loss, injury, property damage, or other casualty  
174 caused by or resulting from the operation of the vessel. The  
175 insurance policy must provide coverage of at least \$500,000 per  
176 person and \$1 million per event. The livery and renter shall  
177 have proof of such insurance available for inspection at the  
178 location where the livery's vessels are being leased or rented,  
179 or offered for lease or rent, and shall provide to each renter  
180 the insurance carrier's name and address and the insurance  
181 policy number.

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

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

193 (a) The commission shall establish by rule the content of  
194 the form.

195 (b) The form must be signed by the individual providing the  
196 instruction.

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

200 ~~(2) A livery may not knowingly lease, hire, or rent a~~



271670

576-02375-22

~~vessel to a person who is required to comply with s. 327.395  
unless such person presents to the livery the documentation  
required by s. 327.395(2) for the operation of a vessel or meets  
the exemption provided under s. 327.395(6)(f).~~

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



271670

576-02375-22

230 degree, punishable as provided in s. 775.082 or s. 775.083, with  
231 a minimum mandatory fine of \$1,000.

232 (10) A person who commits more than one violation of this  
233 section, other than subsection (2), within a 3-year period may  
234 not act as a livery during a 90-day period immediately after  
235 being charged with that violation. Beginning January 1, 2023,  
236 the commission may revoke or refuse to issue a permit under  
237 subsection (2) based on repeated violations of this section.

238 ~~(4)(a) A livery may not knowingly lease, hire, or rent a~~  
239 ~~personal watercraft to any person who is under 18 years of age.~~

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

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

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



271670

576-02375-22

~~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.

(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),



271670

576-02375-22

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

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

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

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

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

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

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

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

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

(n) Section 327.65, relating to muffling devices.

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

1. That does not result in an accident; or

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

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

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

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

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



271670

576-02375-22

personal watercraft.

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

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

(s) Section 327.395, relating to boater safety education. However, a person cited for violating the requirements of s. 327.395 relating to failure to have required proof of boating safety education in his or her possession may not be convicted if, before or at the time of a county court hearing, the person produces proof of the boating safety education identification card or temporary certificate for verification by the hearing officer or the court clerk and the identification card or temporary certificate was valid at the time the person was cited.

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

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

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

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

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

1. For a first offense, \$100 ~~\$50~~.





271670

576-02375-22

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.



271670

576-02375-22

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-



271670

576-02375-22

powered vessels.

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

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

Any person cited for a violation of ~~any provision of~~ this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$100 ~~\$50~~, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation ~~shall~~, in addition to the charge relating to the violation of the boating laws of this state, must be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

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

Section 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.—



271670

576-02375-22

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

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

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

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

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

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

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

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

Section 6. Subsection (3) of section 328.03, Florida Statutes, is amended to read:

328.03 Certificate of title required.—



271670

576-02375-22

(3) A person may ~~shall~~ not sell, assign, or transfer a vessel titled by the state without delivering to the purchaser or transferee a valid certificate of title with an assignment on it showing the transfer of title to the purchaser or transferee. A person may ~~shall~~ not purchase or otherwise acquire a vessel required to be titled by the state without obtaining a certificate of title for the vessel in his or her name. The purchaser or transferee shall, within 30 days after a change in vessel ownership, file an application for a title transfer with the county tax collector. An additional \$10 fee must ~~shall~~ be charged against the purchaser or transferee if he or she files a title transfer application after the 30-day period. The county tax collector may ~~shall be entitled to~~ retain \$5 of the additional amount. Any person who does not properly transfer title of a vessel pursuant to this chapter is subject to the penalties provided in s. 327.73(1)(ee).

Section 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



271670

576-02375-22

subsection (9) is added to that section, to read:

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

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

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



271670

576-02375-22

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

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

Section 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



271670

576-02375-22

549 federal, state, and local levels to increase public safety and  
550 decrease boating accidents, injuries, fatalities, and criminal  
551 activity. In areas where illegal charters and illegal liveries  
552 are found to be operating, the strike team shall do all of the  
553 following:

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

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

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

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

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

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

569 Section 10. For the 2022-2023 fiscal year, the sum of  
570 \$100,000 in recurring funds from the General Revenue Fund is  
571 appropriated to the Fish and Wildlife Conservation Commission  
572 and one full-time equivalent position with associated salary  
573 rate of 60,000 is authorized to implement the amendment made to  
574 s. 327.731, Florida Statutes, by this act relating to ensuring  
575 compliance with mandatory boating safety education requirements.

576 Section 11. For the 2022-2023 fiscal year, the sum of  
577 \$125,000 in nonrecurring funds from the General Revenue Fund is





271670

576-02375-22

578 appropriated to the Fish and Wildlife Conservation Commission  
579 for the purpose of implementing the livery permitting  
580 requirement in s. 327.54(2), Florida Statutes.

581       Section 12. Except as otherwise expressly provided in this  
582 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: PCS/SB 606 (271670)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); and Senator Garcia

SUBJECT: Boating Safety

DATE: February 8, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson/Carroll	Rogers	EN	<b>Favorable</b>
2.	Reagan	Betta	AEG	<b>Recommend: Fav/CS</b>
3.	Reagan	Sadberry	AP	<b>Pre-meeting</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/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; and
- 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 to supplement law enforcement activities.

Relating to boating safety programs, the bill:

- Adds a \$500 fine for certain vessel operators;
- Requires the Florida Fish and Wildlife Conservation Commission (FWC) to maintain a program to ensure compliance with mandatory boating safety education requirements; and
- 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 an appropriation of \$2 million in recurring funds from the General Revenue Fund to the FWC and authorizes seven positions with associated salary rate of \$322,763 for the Illegal Boating Strike Team. The bill also appropriates \$100,000 in recurring funds from the General Revenue Fund to the FWC and authorizes one position with associated salary rate of \$60,000, relating to ensuring compliance with mandatory boating safety education requirements. The bill also appropriates \$125,000 in nonrecurring funds for the 2022-2023 fiscal year from the General Revenue Fund to the FWC for the purpose of implementing 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.<sup>1</sup> The FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate.<sup>2</sup> Under Article IV, section 9 of the Florida Constitution, the 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 the FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.<sup>3</sup> The Division of Law Enforcement manages the state's waterways to ensure boating safety for residents of and visitors to the state.<sup>4</sup> 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.<sup>5</sup>

### **Regulation of Liveries**

A livery vessel is defined as a vessel that is leased, rented, or chartered to another for consideration.<sup>6</sup> 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.

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<sup>1</sup> FLA. CONST. art. IV, s. 9.

<sup>2</sup> *Id.*; see also s. 379.102(1), F.S.

<sup>3</sup> 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.

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

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

<sup>6</sup> Section 327.02(24), F.S.

- 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 and state-approved boater safety course.
- Unless the livery displays boating safety information in a place visible to the renting public.<sup>7</sup>

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.<sup>8</sup>
- 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.<sup>9</sup>
- Personal watercraft without a proper insurance policy.<sup>10</sup>

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

### **Boating Infractions and Penalties**

Chapter 327, F.S., the “Florida Vessel Safety Law,” addresses boating violations.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup> 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.<sup>17</sup> Noncriminal violations include operating with an expired

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<sup>7</sup> Section 327.54(1), F.S.

<sup>8</sup> Section 327.54(2), F.S.

<sup>9</sup> Section 327.54(4), F.S.

<sup>10</sup> Section 327.54(5), F.S.

<sup>11</sup> Section 327.54(3), F.S.

<sup>12</sup> Section 327.54(6), F.S.

<sup>13</sup> Section 327.01, F.S.

<sup>14</sup> Section 327.30(1), (2), and (3), F.S.

<sup>15</sup> Section 327.30, F.S.

<sup>16</sup> Section 327.73(1), F.S.

<sup>17</sup> *Id.*

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.<sup>18</sup>

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.<sup>19</sup>

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.<sup>20</sup>

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.<sup>21</sup>

### **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 National Association of State Boating Law Administrators and state-approved boater education course.<sup>22</sup> The person must file proof of completion of the course with the FWC's Boating and Waterways Section within 90 days of the violation and is not permitted to operate a vessel until proof is filed.<sup>23</sup>

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<sup>18</sup> Section 327.73(o), F.S.

<sup>19</sup> Section 327.73(x) and (y), F.S.

<sup>20</sup> Section 327.73(z) and (bb), F.S.

<sup>21</sup> Section 327.73(cc), F.S.

<sup>22</sup> Section 327.731(1)(a), F.S.

<sup>23</sup> Section 327.731(1)(b) and (c), F.S.

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,<sup>24</sup> as well as a separate course for violators. The provider of the course for violators automatically sends proof of completion electronically to the FWC.<sup>25</sup>

### **Marine Resources Conservation Trust Fund**

The Marine Resources Conservation Trust Fund (MRCTF) within the FWC serves as a broad-based depository for funds from various marine-related and boating-related activities.<sup>26</sup> The 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.<sup>27</sup>

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.<sup>28</sup>

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<sup>24</sup> 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).

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

<sup>26</sup> Section 379.208(1), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> Section 379.208(2), F.S.

## Vessel Titling and Registrations

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

A purchaser of a new or used vessel has 30 days to title and register the vessel.<sup>33</sup> 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.<sup>34</sup> During the 30-day period before registration, the owner must carry proof of the date of purchase aboard the vessel.<sup>35</sup>

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 the 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.<sup>36</sup>

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.<sup>37</sup> 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.<sup>38</sup> Unless

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<sup>29</sup> 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.

<sup>30</sup> Section 328.40, F.S.

<sup>31</sup> Section 328.48(1)(a), F.S.

<sup>32</sup> Section 328.48(3), F.S.

<sup>33</sup> Section 328.46(1), F.S.

<sup>34</sup> Section 328.48(1), F.S.

<sup>35</sup> Section 328.46(1), F.S.

<sup>36</sup> Section 328.48(2), F.S.

<sup>37</sup> Section 328.03(3), F.S.

<sup>38</sup> *Id.*

specified otherwise, a person who fails to meet titling and registration requirements is guilty of a second degree misdemeanor.<sup>39</sup>

### **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.<sup>40</sup> In 2014, Wildlife Alert and the FWC signed a letter of agreement recognizing Wildlife Alert as an FWC Citizen Support Organization.<sup>41</sup> Reporters who know or suspect a violation of Florida's fish, wildlife, environmental, or boating laws may call, text, or 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.<sup>42</sup>

### **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 Conservation Commission (FWC). A conviction is any judicial disposition other than acquittal or dismissal. Money from the additional fines shall be remitted by the clerk of the court to the Department of Revenue 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 the FWC. To qualify for the permit, an applicant must:

- Provide the 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;

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<sup>39</sup> Section 328.21, F.S.

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

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

<sup>42</sup> *Id.*



- 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 the FWC with the updated information within 10 days after the change. The bill authorizes the 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 with rules established by the 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 one 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”:<sup>43</sup>

- 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 and renter 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

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<sup>43</sup> 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. Section 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. Section 327.02(47), F.S.

person and \$1 million per event. The livery and renter 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. The 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 one hour after the contracted rental time has expired, then the livery must notify law enforcement and the U.S. Coast Guard.

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 three 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 three years after a previous conviction, the person commits a misdemeanor of the first degree and may face imprisonment of no more than one 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 five 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 one 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 three year period may not act as a livery during a 90-day period immediately after being charged. Effective January 1, 2023, the 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 six 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; and
  - 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; and
  - 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 ch. 327, F.S. (relating to vessel safety);
- Convicted of a noncriminal infraction under ch. 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 the 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 is 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 the FWC to authorize a live-aboard vessel owner to provide a post office box address in lieu of a physical residential or business address.

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 six 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 the FWC and authorizes seven 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; and
- 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 the FWC and authorizes one 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 the 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. The bill appropriates \$2 million in recurring funds from the General Revenue Fund to the Fish and Wildlife Conservation Commission (FWC) and authorizes seven positions with associated salary rate of 322,763 for the Illegal Boating Strike Team. The bill also appropriates \$100,000 in recurring funds from the General Revenue Fund to the FWC and authorizes one position with associated salary rate of \$60,000, relating to ensuring compliance with mandatory boating safety education requirements. The bill also appropriates \$125,000 in nonrecurring funds for the 2022-2023 fiscal year from the General Revenue Fund to the FWC for the purpose of implementing the no-cost livery permitting requirement.

**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).<sup>44</sup> However, the bill does not state who is responsible for ensuring the additional fine is deposited in the MRCTF.<sup>45</sup>

The Department of Revenue recommends the following 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 Marine.”<sup>46</sup>

**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.

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

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

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

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

**PCS (271670) by Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government):**

The committee substitute:

- Clarifies that the insurance policies purchased by a livery must cover both the livery and renter;
- Allows for the FWC to accept a P.O. Box address instead of a physical residential or business address for live-aboard vessel registration applications in certain cases; and
- Clarifies the clerk of the court shall remit all fines assessed and collected to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund.

**B. Amendments:**

None.

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

CS/CS/HB 493

2022

residential or business address under certain  
circumstances; providing that a person who fails to  
update his or her vessel registration information  
within a specified timeframe is subject to a civil  
penalty; providing effective dates.

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

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

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

327.30 Collisions, accidents, and casualties.—

(7) In addition to any other penalty provided by law, a  
court may order a person convicted of a violation of this  
section or of any rule adopted or order issued by the commission  
pursuant to this section to pay an additional fine of up to  
\$1,000 per violation, 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 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

CS/CS/HB 493

2022

101 of Federal Regulations sufficient to equip all vessels offered  
102 by the livery for rent or lease by another, and display the  
103 information required by paragraph (3)(f). If, before the annual  
104 renewal of the permit, the information required by this  
105 subsection changes, the livery must provide the commission with  
106 the updated information within 10 days after the change.

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

109 (b) A person who violates this subsection commits a  
110 misdemeanor of the first degree, punishable as provided in s.  
111 775.082 or s. 775.083.

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

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

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

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

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

125 (e) ~~When the vessel is equipped with a motor of 10~~

CS/CS/HB 493

2022

126 ~~horsepower or greater,~~ Unless the livery provides pre-rental  
127 ~~prerental~~ or pre-ride ~~preride~~ instruction in compliance with  
128 rules established by the commission. The instruction must  
129 include that includes, but need not be limited to:

- 130 1. Operational characteristics of the vessel to be rented.
- 131 2. Safe vessel operation and vessel right-of-way.
- 132 3. The responsibility of the vessel operator for the safe  
133 and proper operation of the vessel.
- 134 4. Local characteristics of the waterway where the vessel  
135 will be operated, such as navigational hazards, the presence of  
136 boating-restricted areas, and water depths.
- 137 5. Emergency procedures such as appropriate responses to  
138 capsizing, falls overboard, taking on water, and vessel  
139 accidents.

140  
141 ~~Any person delivering the information specified in this~~  
142 ~~paragraph must have successfully completed a boater safety~~  
143 ~~course approved by the National Association of State Boating Law~~  
144 ~~Administrators and this state.~~

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

149 (g) Unless the livery has a written agreement with the  
150 renter or lessee. The written agreement must include a list of

151 the names, addresses, and dates of birth for all persons who  
152 will be aboard the vessel, as well as the time the vessel is  
153 required to be returned to the livery or another specified  
154 location and an emergency contact name, address, and telephone  
155 number. The livery shall maintain each agreement for no less  
156 than 1 year and, upon request, make each agreement available for  
157 inspection by law enforcement.

158 (h) Who is required to comply with s. 327.395, unless such  
159 person presents to the livery the documentation required by s.  
160 327.395(2) for the operation of a vessel or meets the exemption  
161 provided under s. 327.395(6) (f).

162 (i) Who is under 18 years of age.

163 (j) Unless the livery first obtains and carries in full  
164 force and effect a policy from a licensed insurance carrier in  
165 this state which insures the livery against any accident, loss,  
166 injury, property damage, or other casualty caused by or  
167 resulting from the operation of the vessel. The insurance policy  
168 must provide coverage of at least \$500,000 per person and \$1  
169 million per event. The livery shall have proof of such insurance  
170 available for inspection at the location where the livery's  
171 vessels are being leased or rented, or offered for lease or  
172 rent, and shall provide to each renter the insurance carrier's  
173 name and address and the insurance policy number.

174 (4) Notwithstanding the person's age or any exemptions  
175 provided in s. 327.395, any person delivering instruction

176 regarding the safe operation of vessels or pre-rental or pre-  
177 ride instruction in accordance with subsection (3) must have  
178 successfully completed a boating safety education course  
179 approved by the National Association of State Boating Law  
180 Administrators and this state.

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

185 (a) The commission shall establish by rule the content of  
186 the form.

187 (b) The form must be signed by the individual providing  
188 the instruction.

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

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

197 (6)(3) If a vessel rented or leased by a livery is  
198 unnecessarily overdue more than 1 hour after the contracted  
199 vessel rental time has expired, the livery must shall notify law  
200 enforcement and the United States Coast Guard the proper

201 authorities.

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

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

208 (9)(a) A person who violates this section other than  
209 subsection (2), but who has not been convicted of a violation of  
210 this section within the past 3 years, commits a misdemeanor of  
211 the second degree, punishable as provided in s. 775.082 or s.  
212 775.083.

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

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

224 (10) A person who commits more than one violation of this  
225 section, other than subsection (2), within a 3-year period may



226 not act as a livery during a 90-day period immediately after  
227 being charged with that violation. Beginning January 1, 2023,  
228 the commission may revoke or refuse to issue a permit under  
229 subsection (2) based on repeated violations of this section.

230 ~~(4)(a) A livery may not knowingly lease, hire, or rent a~~  
231 ~~personal watercraft to any person who is under 18 years of age.~~

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

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

241 ~~(5) A livery may not lease, hire, or rent any personal~~  
242 ~~watercraft or offer to lease, hire, or rent any personal~~  
243 ~~watercraft unless the livery first obtains and carries in full~~  
244 ~~force and effect a policy from a licensed insurance carrier in~~  
245 ~~this state, insuring against any accident, loss, injury,~~  
246 ~~property damage, or other casualty caused by or resulting from~~  
247 ~~the operation of the personal watercraft. The insurance policy~~  
248 ~~shall provide coverage of at least \$500,000 per person and \$1~~  
249 ~~million per event. The livery must have proof of such insurance~~  
250 ~~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.

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

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

1. For a first or subsequent offense of s. 328.72(13)(a),

up to a maximum of \$100 ~~\$50~~.

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

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

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

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

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

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

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

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

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

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

(n) Section 327.65, relating to muffling devices.

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

CS/CS/HB 493

2022

1. That does not result in an accident; or
2. That results in an accident not causing serious bodily injury or death, for which the penalty is:
  - a. For a first offense, up to a maximum of \$500 ~~\$250~~.
  - b. For a second offense, up to a maximum of \$1,000 ~~\$750~~.
  - c. For a third or subsequent offense, up to a maximum of \$1,500 ~~\$1,000~~.
- (p) Section 327.39(1), (2), (3), and (5), relating to personal watercraft.
- (q) Section 327.53(1), (2), (3), and (8), relating to marine sanitation.
- (r) Section 327.53(4), (5), and (7), relating to marine sanitation, and s. 327.60, relating to no-discharge zones, for which the civil penalty is \$250.
- (s) Section 327.395, relating to boater safety education. However, a person cited for violating the requirements of s. 327.395 relating to failure to have required proof of boating safety education in his or her possession may not be convicted if, before or at the time of a county court hearing, the person produces proof of the boating safety education identification card or temporary certificate for verification by the hearing officer or the court clerk and the identification card or temporary certificate was valid at the time the person was cited.
- (t) Section 327.52(3), relating to operation of overloaded

or overpowered vessels.

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

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

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

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

1. For a first offense, \$100 ~~\$50~~.

2. For a second offense occurring within 12 months after a prior conviction, \$250.

3. For a third offense occurring within 36 months after a prior conviction, \$500.

4. For a fourth or subsequent offense occurring within 72 months after a prior conviction, \$1,000.

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

1. For a first offense, \$100 ~~\$50~~.

2. For a second offense occurring within 12 months after a prior conviction, \$250.

3. For a third offense occurring within 36 months after a prior conviction, \$500.

351 4. For a fourth or subsequent offense occurring within 72  
352 months after a prior conviction, \$1,000.

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

355 1. For a first offense, up to a maximum of \$100 ~~\$50~~.

356 2. For a second offense, up to a maximum of \$250 ~~\$100~~.

357 3. For a third or subsequent offense, up to a maximum of  
358 \$500 ~~\$250~~.

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

362 1. For a first offense, \$100.

363 2. For a second offense occurring 30 days or more after a  
364 first offense, \$250.

365 3. For a third or subsequent offense occurring 30 days or  
366 more after a previous offense, \$500.

367  
368 A vessel that is the subject of three or more violations issued  
369 pursuant to the same paragraph of s. 327.4107(2) within an 18-  
370 month period which result in dispositions other than acquittal  
371 or dismissal shall be declared to be a public nuisance and  
372 subject to ss. 705.103(2) and (4) and 823.11(3). The commission,  
373 an officer of the commission, or a law enforcement agency or  
374 officer specified in s. 327.70 may relocate, remove, or cause to  
375 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

401 a maximum of \$500.

402  
403 Any person cited for a violation of ~~any provision of~~ this  
404 subsection shall be deemed to be charged with a noncriminal  
405 infraction, shall be cited for such an infraction, and shall be  
406 cited to appear before the county court. The civil penalty for  
407 any such infraction is \$100 ~~\$50~~, except as otherwise provided in  
408 this section. Any person who fails to appear or otherwise  
409 properly respond to a uniform boating citation ~~shall~~, in  
410 addition to the charge relating to the violation of the boating  
411 laws of this state, must be charged with the offense of failing  
412 to respond to such citation and, upon conviction, be guilty of a  
413 misdemeanor of the second degree, punishable as provided in s.  
414 775.082 or s. 775.083. A written warning to this effect shall be  
415 provided at the time such uniform boating citation is issued.

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

421 Section 5. Subsection (1) of section 327.731, Florida  
422 Statutes, is amended, and subsection (4) is added to that  
423 section, to read:

424 327.731 Mandatory education for violators.—

425 (1) A person convicted of a criminal violation under this



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

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

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

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

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

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

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

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

CS/CS/HB 493

2022

451 Section 6. Subsection (3) of section 328.03, Florida  
452 Statutes, is amended to read:

453 328.03 Certificate of title required.—

454 (3) A person may ~~shall~~ not sell, assign, or transfer a  
455 vessel titled by the state without delivering to the purchaser  
456 or transferee a valid certificate of title with an assignment on  
457 it showing the transfer of title to the purchaser or transferee.  
458 A person may ~~shall~~ not purchase or otherwise acquire a vessel  
459 required to be titled by the state without obtaining a  
460 certificate of title for the vessel in his or her name. The  
461 purchaser or transferee shall, within 30 days after a change in  
462 vessel ownership, file an application for a title transfer with  
463 the county tax collector. An additional \$10 fee must ~~shall~~ be  
464 charged against the purchaser or transferee if he or she files a  
465 title transfer application after the 30-day period. The county  
466 tax collector may ~~shall be entitled to~~ retain \$5 of the  
467 additional amount. Any person who does not properly transfer  
468 title of a vessel pursuant to this chapter is subject to the  
469 penalties provided in s. 327.73(1)(ee).

470 Section 7. Effective July 1, 2023, subsection (4) of  
471 section 328.03, Florida Statutes, as amended by chapter 2019-76,  
472 Laws of Florida, is amended to read:

473 328.03 Certificate of title required.—

474 (4) An additional \$10 fee shall be charged against the  
475 purchaser or transferee if he or she files a title transfer

476 application after the 30-day period. The county tax collector  
477 may ~~shall be entitled to~~ retain \$5 of the additional amount. Any  
478 person who does not properly transfer title of a vessel pursuant  
479 to this chapter is subject to the penalties provided in s.  
480 327.73(1)(ee).

481 Section 8. Paragraph (a) of subsection (1) and subsection  
482 (4) of section 328.48, Florida Statutes, are amended, and  
483 subsection (9) is added to that section, to read:

484 328.48 Vessel registration, application, certificate,  
485 number, decal, duplicate certificate.—

486 (1)(a) The owner of each vessel required by this law to  
487 pay a registration fee and secure an identification number shall  
488 file an application with the county tax collector. The  
489 application must ~~shall~~ provide the owner's name and physical  
490 residential or business address; residency status; personal or  
491 business identification; and a complete description of the  
492 vessel, and must ~~shall~~ be accompanied by payment of the  
493 applicable fee required in s. 328.72. An individual applicant  
494 must provide a valid driver license or identification card  
495 issued by this state or another state or a valid passport. A  
496 business applicant must provide a federal employer  
497 identification number, if applicable, verification that the  
498 business is authorized to conduct business in this ~~the~~ state, or  
499 a Florida city or county business license or number.

500 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 ~~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

CS/CS/HB 493

2022

526 ~~shall~~ be available for inspection on the vessel for which issued  
527 whenever such vessel is in operation. Upon receipt of an  
528 application from a live-aboard vessel owner, the commission may  
529 authorize such owner to provide a post office box address in  
530 lieu of a physical residential address so long as he or she has  
531 not been convicted of a criminal offense under this chapter or  
532 chapter 327.

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

537       Section 9. Except as otherwise expressly provided in this  
538 act, this act shall take effect July 1, 2022.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 493 Boating Safety

**SPONSOR(S):** Agriculture & Natural Resources Appropriations Subcommittee, Environment, Agriculture & Flooding Subcommittee, Botana and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 606

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee	16 Y, 0 N, As CS	Mamontoff	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N, As CS	White	Pigott
3) State Affairs Committee			

### SUMMARY ANALYSIS

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources. FWC is also the agency responsible for regulating boating in the state. Through its Division of Law Enforcement, FWC manages the state's waterways to ensure boating safety for state residents and visitors. This responsibility 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.

A livery vessel is a vessel that is leased, rented, or chartered to another for consideration. A facility that rents and leases such vessels is called a livery. Current law imposes certain requirements on liveries and prohibits them from renting or leasing vessels under certain circumstances.

Beginning January 1, 2023, the bill prohibits a livery from offering a vessel for lease or rent without first being issued a no-cost livery permit by FWC, which must be renewed annually. The bill also requires liveries to implement certain safety requirements and establishes penalties for violations of livery requirements.

The bill authorizes a court to order a person who is convicted of a violation related to boating collisions and accidents to pay an additional fine of up to \$1,000 per violation.

The bill increases or establishes maximum penalties for certain noncriminal infractions of vessel safety laws. The bill also increases the default civil penalty for noncriminal infractions of vessel laws from \$50 to \$100, which applies when a different maximum penalty is not specified for a particular infraction.

The bill requires a person who is subject to mandatory education requirements as a result of certain violations of vessel laws to pay a fine of \$500. The bill also requires FWC to maintain a program to ensure violators are in compliance with mandatory boating safety education requirements.

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

The bill may have an indeterminate negative fiscal impact on the state that can be absorbed within existing resources and no fiscal impact on local governments.

The bill provides an effect date of July 1, 2022, except as otherwise provided.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC), created by Article IV, section 9, of the Florida Constitution, is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources. FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Senate.<sup>1</sup> Pursuant to its constitutional authority, FWC exercises the regulatory and executive powers of the state with respect to wild animal life, freshwater aquatic life, and marine life.

FWC is also the agency responsible for regulating boating in the state. Through its Division of Law Enforcement, FWC manages the state's waterways to ensure boating safety for state residents and visitors.<sup>2</sup> This responsibility 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.<sup>3</sup>

##### Boating Collisions, Accidents, and Casualties

In 2020, there were 836 boating accidents in the state,<sup>4</sup> which was 113 more accidents than in 2019, a 16 percent increase.<sup>5</sup> In addition, 79 people lost their lives in boating accidents in 2020, which was 14 more than the previous year. According to FWC, 69 percent of operators involved in fatal boating accidents in 2020 had no formal boater education.<sup>6</sup>

In the event of a boating collision, accident, or other casualty, current law imposes a duty on a vessel operator involved in the incident to provide assistance to others affected by the incident to the extent practicable and necessary.<sup>7</sup> The operator must also give notice of the accident, by the quickest means available, to one of the following agencies: FWC's Division of Law Enforcement; the sheriff of the county within which the accident occurred; or the police chief of the municipality within which the accident occurred.<sup>8</sup>

A vessel operator involved in an accident or injury is prohibited by law from leaving the scene of an accident without rendering all possible aid to all persons involved and without notifying the appropriate law enforcement official. A person who violates this prohibition with respect to an accident that results in personal injury commits a third degree felony.<sup>9</sup> A person who violates this prohibition with respect to an accident resulting in property damage commits a second degree misdemeanor.<sup>10</sup>

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<sup>1</sup> Article IV, s. 9, FLA. CONST.

<sup>2</sup> Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Jan. 29, 2022).

<sup>3</sup> FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Jan. 29, 2022). See s. 327.70(1) and (4), F.S.

<sup>4</sup> FWC, *2020 Boating Accident Statistical Report*, 2020, <https://myfwc.com/media/26462/2020-basr-booklet.pdf> (last visited Jan. 28, 2022).

<sup>5</sup> FWC, *FWC Releases 2020 Boating Accident Statistical Report*, <https://myfwc.com/news/all-news/boating-stats-521/> (last visited Jan. 28, 2022).

<sup>6</sup> *Id.*

<sup>7</sup> Section 327.30(1), F.S.

<sup>8</sup> Section 327.30(2), F.S.

<sup>9</sup> A third degree felony is punishable by a term of imprisonment up to five years and a fine of up to \$5,000. Sections 775.082(3)(e) and 775.083(1)(c), F.S.

<sup>10</sup> Section 327.30(5), F.S.; A second degree felony is punishable by a term of imprisonment up to 60 days and a fine of up to \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

A law enforcement officer investigating a boating collision or accident may arrest or cite the vessel operator involved in the accident or collision when the officer has probable cause to believe that the operator has committed an offense in connection with the accident or collision.<sup>11</sup>

### Regulation of Liveries

A livery vessel is a vessel that is leased, rented, or chartered to another for consideration.<sup>12</sup> A facility that rents and leases such vessels is called a livery. A livery may not knowingly lease, hire, or rent a vessel to any person if any one of the following circumstances exists:

- The number of persons intending to use the vessel exceeds a maximum safety load for the vessel as specified on the authorized persons capacity plate of the vessel;
- The horsepower of the motor exceeds the capacity of the vessel;
- The vessel does not contain the statutorily required safety equipment;
- The vessel is not seaworthy;
- The vessel is equipped with a motor of 10 horsepower or greater, unless the livery provides required pre-rental or pre-ride instruction by a person who has successfully completed a National Association of State Boating Law Administrators (NASBLA) and state-approved boater safety course; or
- The livery does not display boating safety information in a place visible to the renting public.<sup>13</sup>

Additionally, a livery may not knowingly lease, hire, or rent:

- A vessel powered by a motor of 10 horsepower or greater to any person who is required to comply with boater safety education requirements, unless such person presents to the livery photographic identification and a valid boater safety identification card or meets the boating education certificate exemption;
- A personal watercraft to any person who is under 18 years of age; or
- A personal watercraft to any person who has not received instruction in the safe handling of personal watercraft.<sup>14</sup>

If a vessel is unnecessarily overdue, the livery is required to notify the proper authorities.<sup>15</sup> A violation of a livery regulation constitutes a second degree misdemeanor.<sup>16</sup>

### Noncriminal Boating Infraction

Current law sets forth the maximum fines for noncriminal infractions of Florida's boating laws. Unless otherwise specified in statute, the civil penalty for a noncriminal infraction is \$50.<sup>17</sup> Some examples of noncriminal violations are 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.<sup>18</sup>

For a violation related to 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;

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<sup>11</sup> Section 327.30(6), F.S.

<sup>12</sup> Section 327.02(24), F.S.

<sup>13</sup> Section 327.54(1), F.S.

<sup>14</sup> Section 327.54(4), F.S.

<sup>15</sup> Section 327.54(3), F.S.

<sup>16</sup> Section 327.54(6), F.S.

<sup>17</sup> Section 327.73, F.S.

<sup>18</sup> Section 327.73(1)(o), F.S.



- \$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.<sup>19</sup>

For anchoring in an anchoring limitation area or 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.<sup>20</sup>

For a violating speed restrictions in an area 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.<sup>21</sup>

All fees and civil penalties assessed and collected for noncriminal violations must be deposited into the Marine Resources Conservation Trust Fund for boating safety education purposes.<sup>22</sup>

#### Mandatory Education for Violators

A person who is convicted of a criminal violation, a noncriminal infraction resulting in a reportable boating accident, or two noncriminal infractions within a 12-month period must enroll in, attend, and successfully complete, at his or her own expense, a classroom or online boating safety course approved by the minimum standards established by FWC rule.<sup>23</sup> He or she must then file with the FWC within 90 days proof of successful completion of the course and refrain from operating a vessel until proof of successful completion of the course has been filed with FWC.<sup>24</sup>

#### Marine Resources Conservation Trust Fund

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. FWC must administer the MRCTF for a variety of purposes, including marine research, fishery enhancement, marine law enforcement, administration of licensing programs, and FWC operations.<sup>25</sup>

#### Vessel Titling and Registration

All motorized vessels operating on Florida's public waterways must be titled and registered pursuant to ch. 328, F.S.<sup>26</sup> The Department of Highway Safety and Motor Vehicles (DHSMV) is responsible for issuing vessel registrations and titles.<sup>27</sup> Registration and title applications must be filed at a county tax collector or license plate agent office,<sup>28</sup> but DHSMV is responsible for issuing vessel registrations.<sup>29</sup>

A purchaser of a new or used vessel has 30 days to title and register the vessel.<sup>30</sup> The required information for a vessel registration application includes: the owner's name and address; residency status; personal or business identification; a complete description of the vessel; payment of the

<sup>19</sup> Section 327.73(1)(x) and (y), F.S.

<sup>20</sup> Section 327.73(1)(z) and (bb), F.S.

<sup>21</sup> Section 327.73(1)(cc), F.S.

<sup>22</sup> Section 327.73(8), F.S.

<sup>23</sup> Section 327.731(1)(a)

<sup>24</sup> Section 327.731(1)(b), F.S.

<sup>25</sup> Section 379.208(1), F.S.

<sup>26</sup> See s. 328.03, F.S.

<sup>27</sup> Section 328.40, F.S.

<sup>28</sup> Section 328.48(1)(a), F.S.

<sup>29</sup> Section 328.48(3), F.S.

<sup>30</sup> Section 328.46(1), F.S.

applicable fee; and proof of ownership of the vessel.<sup>31</sup> During the 30-day period before registration, the owner must carry proof of the date of purchase aboard the vessel.<sup>32</sup>

Each vessel operated, used, or stored on state waters must be titled, unless it is:

- A vessel operated, used, or 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 by the U.S. Coast Guard, if the vessel is not located in the state for more than 90 consecutive days;
- A vessel from a country other than the U.S., if the vessel is not located in the state for more than 90 days;
- An amphibious vessel for which a vehicle title is issued by the 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.<sup>33</sup>

A person may not sell, assign, or transfer their vessel without providing to the purchaser or transferee a valid certificate of title with an assignment on it showing transfer of title to the purchaser or transferee.<sup>34</sup> The purchaser or transferee must file an application for a title transfer with the county tax collector within 30 days of the change in vessel ownership.<sup>35</sup>

The owner of a vessel is required to pay a registration fee, secure an identification number, and file an application with the county tax collector.<sup>36</sup> Registration is required for any vessel that is operated, used, or stored on state waters, unless it is:

- A vessel operated, used, and stored exclusively on private lakes and ponds;
- A vessel owned by the U.S. government;
- A vessel used exclusively as a ship's lifeboat; or
- A non-motor-powered vessel less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.<sup>37</sup>

Each issued certificate of registration must state the numbers awarded to the vessel, the hull identification number, the name and address of the owner, and a description of the vessel.<sup>38</sup>

## **Effect of the Bill**

### **Boating Collisions, Accidents, and Casualties**

The bill authorizes a court to order a person who is convicted of a violation related to boating collisions and accidents to pay an additional fine of up to \$1,000 per violation, which must be deposited into the MRCTF to be used to enhance state and local law enforcement activities related to boating infractions.

### **Regulation of Liveries**

The bill defines the term “livery” to mean 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.

Beginning January 1, 2023, the bill prohibits a livery from offering a vessel<sup>39</sup> for lease or rent without first being issued a no-cost livery permit by FWC, which must be renewed annually. To qualify for issuance or renewal of the no-cost permit, the bill requires an applicant to:

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<sup>31</sup> Section 328.48(1), F.S.

<sup>32</sup> Section 328.46(1), F.S.

<sup>33</sup> Section 328.03(1), F.S.

<sup>34</sup> Section 328.03(3), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> Section 328.48(1)(a), F.S.

<sup>37</sup> Section 328.48(2), F.S.

<sup>38</sup> Section 328.48(4), F.S.

- Provide FWC with a list of all livery vessels offered for lease or rent;
- Have valid insurance;
- Have an amount of personal floatation devices on site sufficient to accommodate the capacity of all vessels offered for rent or lease;
- Have all required safety equipment required on site sufficient to equip all vessels offered for rent or lease; and
- Display boating safety information in a place visible to the renting public.

The bill authorizes FWC to adopt rules to implement the permitting requirements and specifies that a person who violates such requirements commits a first degree misdemeanor.<sup>40</sup>

The bill prohibits a livery from knowingly leasing or renting a vessel to any person under the following circumstances:

- The vessel is a derelict vessel or is at risk of becoming derelict.
- The livery has not provided pre-rental or pre-ride instructions in compliance with FWC rules.
- There is no signed written agreement with the renter or lessee that includes 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 must maintain each agreement for no less than one year and make it available for inspection if requested by law enforcement.
- A person does not have the required photographic identification and boating safety card (unless the person is exempt from the requirement).

The bill requires pre-ride or pre-rental instructions to include local characteristics of the waterway where the vessel will be operated, such as navigational hazards, boating-restricted areas, and water depths. In addition, such instruction must include emergency procedures such as appropriate responses to capsizing, falling overboard, taking on water, and vessel accidents. The bill requires pre-ride instructions to be provided for all livery vessels rather than limiting this requirement to vessels equipped with a motor of 10 horsepower or more.

The bill expands the application of the following prohibitions and requirements, which currently only apply to personal watercraft,<sup>41</sup> to all livery vessels, including human-powered vessels:

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

The bill requires any person delivering the required boating safety instruction to have successfully completed a boating safety education course approved by NASBLA and the state.

<sup>39</sup> The term "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. Section 327.02(47), F.S.

<sup>40</sup> A first degree misdemeanor is punishable by a term of imprisonment up to 1 year and a fine of up to \$1,000. Sections 775.082(4)(a) and 775.083(1)(d), F.S.

<sup>41</sup> The term "personal watercraft" is a vessel 16 feet in length that 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. Section 327.02(36), F.S.

If a vessel rented or leased by a livery is unnecessarily overdue more than one hour after the contracted vessel rental time expires, the bill requires the livery to notify law enforcement and the U.S. Coast Guard.

The bill requires a livery to 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 involved in the accident is incapable of making a report.

The bill requires a livery to make its facilities and records available for inspection no later than 24 hours after requested by law enforcement.

The bill establishes the following penalties for violations of the livery requirements:

- A person who violates one or more statutory requirements for liveries, except for the livery permit requirement, and who has not been convicted of a violation of the livery requirements in the past three years, commits a second degree misdemeanor.<sup>42</sup>
- If the violation has occurred within three years after a previous conviction, the person commits a first degree misdemeanor. There is an additional minimum mandatory fine of \$500.
- If the person commits another violation within five years after two previous convictions for violations of the livery requirements, the person commits a first degree misdemeanor. There is an additional minimum mandatory fine of \$1,000.
- A person who commits more than one violation of the livery requirements, except for the livery permit requirement, within a three-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 livery permit based on repeated violations of the livery requirements.

#### Noncriminal Infractions

The bill increases the maximum penalty for certain noncriminal infractions as follows:

- For a first or subsequent offense relating to the operation of a vessel with an expired registration of six months or less, the penalty is increased from \$50 to \$100.
- For a first offense relating to a violation of navigation rules that does not result in an accident or that results in an accident not causing serious bodily injury or death, the penalty is increased from \$250 to \$500. For a second offense, the penalty is increased from \$750 to \$1,000. For a third or subsequent offense, the penalty is increased from \$1,000 to \$1,500.
- For a first offense relating to carelessly causing seagrass scarring, the penalty is increased from \$50 to \$100.
- For a first offense relating to protection zones for springs, the penalty is increased from \$50 to \$100.
- For a first offense relating to the anchoring of vessels in anchoring limitation areas, the penalty is increased from \$50 to \$100. For a second offense, the penalty is increased from \$100 to \$250. For a third or subsequent offense, the penalty is increased from \$250 to \$500.
- For a first offense relating to anchoring or mooring in a prohibited area, the penalty is increased from \$50 to \$100. For a second offense, the penalty is increased from \$100 to \$250. For a third or subsequent offense, the penalty is increased from \$250 to \$500.
- For a first offense relating to vessels creating special hazards, the penalty is increased from \$50 to \$100. For a second offense occurring within 12 months after a prior offense, the penalty is increased from \$100 to \$250. For a third offense occurring within 36 months after a prior offense, the penalty is increased from \$250 to \$500.

The bill also increases the default civil penalty for noncriminal infractions of vessel laws from \$50 to \$100, which applies when a different maximum penalty is not specified for a particular infraction.

The bill establishes new penalties of up to a maximum of \$500 for an improper transfer of title or the failure to update vessel registration information.

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<sup>42</sup> A second degree misdemeanor is punishable by a term of imprisonment up to 60 days and a fine of up to \$500.

Sections 775.082(4)(b) and 775.083(1)(e), F.S.

**STORAGE NAME:** h0493b.ANR

**DATE:** 2/15/2022

The bill specifies that fees and civil penalties assessed and collected for noncriminal violations and deposited into the MRCTF must be used for law enforcement purposes in addition to boating safety education purposes.

#### Mandatory Education for Violators

The bill requires a person who is subject to mandatory education requirements as a result of certain violations of vessel laws to pay a fine of \$500. The bill requires the fines to be deposited into the MRCTF to support law enforcement activities.

The bill requires FWC to maintain a program to ensure violators are in compliance with mandatory boating safety education requirements. The program must track any citations resulting in a conviction and the disposition of such citations and send specific notices to each person subject to the requirement for mandatory boating safety education.

#### Vessel Registration

This bill requires an applicant for a vessel registration to provide a physical residential or business address on the application. The bill specifies that upon receipt of an application from a live-aboard vessel owner, FWC 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 ch. 328, F.S., relating to vessel titles and registration, or ch. 327, F.S., relating to vessel safety.

The bill requires each certificate of registration issued to state the physical residential or business address of the owner.

The bill specifies that a person who does not update his or her vessel registration information with the county tax collector within six months after a change to the information is subject to a maximum penalty of \$500.

### B. SECTION DIRECTORY:

- Section 1. Provides a short title.
- Section 2. Amends s. 327.30, F.S., relating to collisions, accidents, and casualties.
- Section 3. Amends s. 327.54, F.S., relating to liveries.
- Section 4. Amends s. 327.73, F.S., relating to noncriminal infractions.
- Section 5. Amends s. 327.731, F.S., relating to mandatory education for violators.
- Section 6. Amends s. 328.03, F.S., relating to certificates of title.
- Section 7. Amends s. 328.03, F.S., relating to certificates of title.
- Section 8. Amends s. 328.48, F.S., relating to vessel registration.
- Section 9. 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:

The bill may have a positive fiscal impact on state revenues as a result of increasing the maximum penalties that may be imposed for certain noncriminal infractions.

2. Expenditures:

The bill may have an indeterminate negative fiscal impact on FWC related to ensuring compliance with mandatory boating safety education requirements and implementing the bill's livery permitting requirements. It is anticipated that the fiscal impact can be absorbed within FWC's existing resources.

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 authorizes FWC to adopt rules to implement livery permitting requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 3, 2022, the Environment, Agriculture & Flooding Subcommittee adopted a PCS and reported the bill favorably as a committee substitute. The amendment removed provisions from the bill that created an Illegal Boating Strike Team and appropriated funds for the team.

On February 14, 2022, the Agriculture & Natural Resources Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed the appropriations from the bill.

This analysis is drafted to the committee substitute as approved by the Agriculture & Natural Resources Appropriations Subcommittee.

By Senator Hooper

16-00325-22

2022820\_\_

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.

26  
27   Be It Enacted by the Legislature of the State of Florida:

28  
29       Section 1. Subsection (4) of section 326.002, Florida

16-00325-22

2022820\_\_

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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(e) Furnish a full set of fingerprints taken within the 6 months immediately preceding the submission of the application.

(f) Have a current license and has operated as a broker or salesperson without a license.

(8) A person may not be licensed as a broker unless he or she has been licensed as a salesperson for at least 2 consecutive years and can demonstrate that he or she has been directly involved in at least four transactions that resulted in the sale of a yacht or can certify that he or she has obtained 20 continuing education credits approved by the division, ~~and may not be licensed as a broker unless he or she has been licensed as a salesperson for at least 2 consecutive years.~~

(15) The division shall adopt ~~provide~~ by rule a complaint form for alleged violations of this chapter by a licensed broker or salesperson. Any person may submit a complaint form, which must require the person to provide detailed facts of the alleged violation. The division shall commence an investigation within 15 days after receiving a complaint form and must suspend or revoke a broker's or salesperson's license, or otherwise discipline the licensee, if the division determines that the broker or salesperson violated this chapter ~~for the issuance of a temporary 90-day license to an applicant while the Florida Department of Law Enforcement conducts a national criminal history analysis of the applicant by means of fingerprint identification.~~

Section 3. This act shall take effect October 1, 2022.

CS/HB 529

2022

1                                    A bill to be entitled  
2        An act relating to yacht and ship brokers located out  
3        of state; amending s. 326.004, F.S.; exempting a  
4        person who regularly conducts business as a yacht or  
5        ship broker or salesperson in another state from  
6        licensure for specified transactions; providing an  
7        exception; providing an effective date.  
8

9    Be It Enacted by the Legislature of the State of Florida:  
10

11            Section 1. Paragraph (f) is added to subsection (3) of  
12    section 326.004, Florida Statutes, to read:

13            326.004 Licensing.—

14            (3) A license is not required for:

15            (f) A person who regularly conducts business as a yacht or  
16    ship broker or salesperson in another state who engages in the  
17    purchase or sale of a yacht under this act if the transaction is  
18    executed with a broker or salesperson licensed in this state.  
19    This limitation does not apply to a duly licensed attorney.

20            Section 2. This act shall take effect upon becoming a law.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 529 Yacht and Ship Brokers Located Out of State

**SPONSOR(S):** Regulatory Reform Subcommittee, LaMarca

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 820

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	17 Y, 0 N, As CS	Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee	13 Y, 0 N	Helpling	Topp
3) Commerce Committee			

### SUMMARY ANALYSIS

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through 12 divisions, including the Division of Florida Condominiums, Timeshares, and Mobile Homes (division), which regulates yacht and ship brokers and salespersons. A person may not act as a broker or salesperson in Florida unless they are licensed by the division.

For the purposes of the practice act, “yacht” means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.

A yacht and ship “broker” is a person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons. A person may not be licensed as a broker unless they have been a salesperson for at least 2 consecutive years.

A license is not required for:

- A person who sells his or her own yacht,
- An attorney at law for services rendered in his or her professional capacity,
- A receiver, trustee, or other person acting under a court order,
- A transaction involving the sale of a new yacht, or
- A transaction involving the foreclosure of a security interest in a yacht.

The bill provides that a license is not required for a person who regularly conducts business as a yacht or ship broker or salesperson in another state who engages in the purchase or sale of a yacht under this act, if the transaction is executed with a broker or salesperson licensed in this state. This limitation does not apply to a duly licensed attorney.

The bill may have a minimal indeterminate fiscal impact on state government, and no fiscal impact on local governments.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Yacht and Ship Brokers**

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through 12 divisions, including the Division of Florida Condominiums, Timeshares, and Mobile Homes (division).<sup>1</sup>

The division provides consumer protection for Florida residents through education, complaint resolution, mediation and arbitration, and developer disclosure.<sup>2</sup> The division has limited regulatory authority over the following business entities and individuals:

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations.<sup>3</sup>

For the purposes of the practice act, "yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.<sup>4</sup>

A yacht and ship "broker" is a person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons.<sup>5</sup> A person may not be licensed as a broker unless they have been a salesperson for at least 2 consecutive years.<sup>6</sup>

A yacht and ship "salesperson" is a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker.<sup>7</sup>

Yacht and ship brokers, salespersons, and related business organizations are regulated under ch. 326, F.S., and by the division.<sup>8</sup> A person may not act as a broker or salesperson in Florida unless they are licensed by the division.<sup>9</sup>

An applicant for a license as a broker or salesperson must demonstrate or provide the following to the division:<sup>10</sup>

- Proof of good moral character.
- Proof that they have never been convicted of a felony.
- A \$25,000 bond for broker or a \$10,000 bond for salespersons to the division.
- Proof that they are a resident of Florida or that they conduct business in Florida.
- A full set of fingerprints taken within the 6 months immediately preceding the submission of the application.
- Proof that they have not operated as a broker or salesperson without a license.

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<sup>1</sup> S. 20.165, F.S.

<sup>2</sup> Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/> (last visited Feb. 4, 2022).

<sup>3</sup> *Id.*

<sup>4</sup> S. 326.002(4), F.S.

<sup>5</sup> S. 326.002(1), F.S.

<sup>6</sup> S. 326.004(8), F.S.

<sup>7</sup> S. 326.002(3), F.S.

<sup>8</sup> Ch. 326, F.S.

<sup>9</sup> S. 326.004(1), F.S.

<sup>10</sup> S. 326.004(6), F.S.

A license is not required for:<sup>11</sup>

- A person who sells his or her own yacht,
- An attorney at law for services rendered in his or her professional capacity,
- A receiver, trustee, or other person acting under a court order,
- A transaction involving the sale of a new yacht, or
- A transaction involving the foreclosure of a security interest in a yacht.

There are no provisions for a license by endorsement, or licensure for persons who are licensed in another jurisdiction.

### **Effect of the Bill**

The bill provides that a license is not required for a person who regularly conducts business as a yacht or ship broker or salesperson in another state who engages in the purchase or sale of a yacht under this act, if the transaction is executed with a broker or salesperson licensed in this state. This limitation does not apply to a duly licensed attorney.

The bill is effective upon becoming law.

### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 326.004, F.S.; relating to a licensure exception.

**Section 2:** Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The bill may have an insignificant negative fiscal impact related to licensing fees collected by the division due to less out-of-state yacht and ship brokers needing to have a Florida license to do business in Florida in certain circumstances.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill may allow more out-of-state yacht and ship brokers to do business in Florida.

### **D. FISCAL COMMENTS:**

None.

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<sup>11</sup> S. 362.004(3), F.S.  
**STORAGE NAME:** h0529b.SAT  
**DATE:** 2/15/2022

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 8, 2022, the Regulatory Reform Subcommittee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from HB 529 by removing provisions that:

- Expand the definition of “yacht,”
- Require broker applicants to meet increased experience or education standards,
- Expedite broker and salesperson complaints at DBPR, and
- Allow a temporary license.

The analysis is drafted to the committee substitute as passed by the Regulatory Reform Subcommittee.

By Senator Albritton

26-00971-22

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A bill to be entitled  
An act relating to residential property riparian  
rights; amending s. 253.141, F.S.; 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; defining terms; providing  
applicability; requiring courts to award reasonable  
attorney fees and costs to a prevailing party in a  
civil action under certain circumstances; reenacting  
ss. 403.813(1)(s) and 403.9323(3), F.S., relating to  
permits issued at district centers and legislative  
intent in recognizing rights of riparian property  
ownership, respectively, to incorporate the amendment  
made to s. 253.141, F.S., in references thereto;  
providing an effective date.

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

Section 1. Subsection (1) of section 253.141, Florida  
Statutes, is amended to read:

253.141 Riparian rights defined; certain submerged bottoms  
subject to private ownership.—

(1)(a) Riparian rights are those 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 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

26-00971-22

2022840\_\_

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



26-00971-22

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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

26-00971-22

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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

26-00971-22

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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

26-00971-22

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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.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SB 840

INTRODUCER: Senator Albritton

SUBJECT: Residential Property Riparian Rights

DATE: February 1, 2022

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Collazo	Rogers	EN	<b>Favorable</b>
2. Bond	Cibula	JU	<b>Favorable</b>
3. Collazo	Phelps	RC	<b>Favorable</b>

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## 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.

The bill is effective upon becoming law.

## II. Present Situation:

### Riparian Rights Generally

Riparian rights<sup>1</sup> are rights of a landowner 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

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<sup>1</sup> 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.*

defined by law.<sup>2</sup> 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 mark<sup>3</sup> of the navigable water. Whoever owns or leases the land enjoys the rights, regardless of whether they are mentioned in a deed or lease.<sup>4</sup> Riparian rights may not be taken without just compensation and due process of law.<sup>5</sup> 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.<sup>6</sup>

The state holds title to sovereign submerged lands in trust for public use.<sup>7</sup> The public generally enjoys rights such as bathing, fishing, commerce, and navigation.<sup>8</sup> Upland property owners enjoy these rights in common with the public.<sup>9</sup> Riparian rights are additional, exclusive rights that are held by upland property owners but not the general public.<sup>10</sup> 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.<sup>11</sup>
- Wharfing out, meaning building structures on the shoreline.<sup>12</sup>

The doctrines of erosion, accretion, and reliction are also riparian rights.<sup>13</sup> 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)<sup>14</sup> is altered accordingly.<sup>15</sup> Riparian property owners

<sup>2</sup> 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).

<sup>3</sup> *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).

<sup>4</sup> Section 253.141(1), F.S.

<sup>5</sup> *Broward v. Mabry*, 58 Fla. 398, 410 (1909).

<sup>6</sup> *Harrell v. Hess Oil & Chem. Corp.*, 287 So. 2d 291, 295 (Fla. 1973).

<sup>7</sup> FLA. CONST. art. X, s. 11.

<sup>8</sup> *Walton County*, 998 So. 2d at 1110-11.

<sup>9</sup> *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.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *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 Jan. 16, 2022).

<sup>13</sup> *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.

<sup>14</sup> *See s. 177.28(1)*, F.S.

<sup>15</sup> *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.<sup>16</sup> 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.<sup>17</sup>

### **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.<sup>18</sup> The Court stated that, based on the nature of upland boundary lines, it is impossible to formulate a geometric rule to govern all cases.<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup>

The principles established in *Hayes* still apply in Florida today.<sup>22</sup> 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.<sup>23</sup> 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.<sup>24</sup> Rights are applied based on the shape of the uplands, the shape of the waterbody, and the parties’ relative position to each other.<sup>25</sup>

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<sup>16</sup> *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).

<sup>17</sup> *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.

<sup>18</sup> *Hayes v. Bowman*, 91 So. 2d 795, 801 (Fla. 1957).

<sup>19</sup> *Id.* at 801-802.

<sup>20</sup> *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.*

<sup>21</sup> *Id.* at 802.

<sup>22</sup> *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).

<sup>23</sup> *Nourachi v. United States*, 655 F. Supp. 2d 1215, 1227 (M.D. Fla. 2009).

<sup>24</sup> *Hayes*, 91 So. 2d at 801-802.

<sup>25</sup> *Johnson v. McCowen*, 348 So. 2d 357, 360 (Fla. 1st DCA 1977).

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.<sup>26</sup> In one case, a Florida court reversed a decision of a 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.<sup>27</sup>

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.<sup>28</sup> 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.<sup>29</sup>

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.<sup>30</sup> 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”).<sup>31</sup> 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.

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<sup>26</sup> *Lake Conway Shores Homeowners Ass'n, Inc. v. Driscoll*, 476 So. 2d 1306, 1309-10 (Fla. 5th DCA 1985).

<sup>27</sup> *Id.*; see also *Muraca v. Meyerowitz*, 818 N.Y.S.2d 450, 456-57 (Sup. Ct. 2006).

<sup>28</sup> 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).

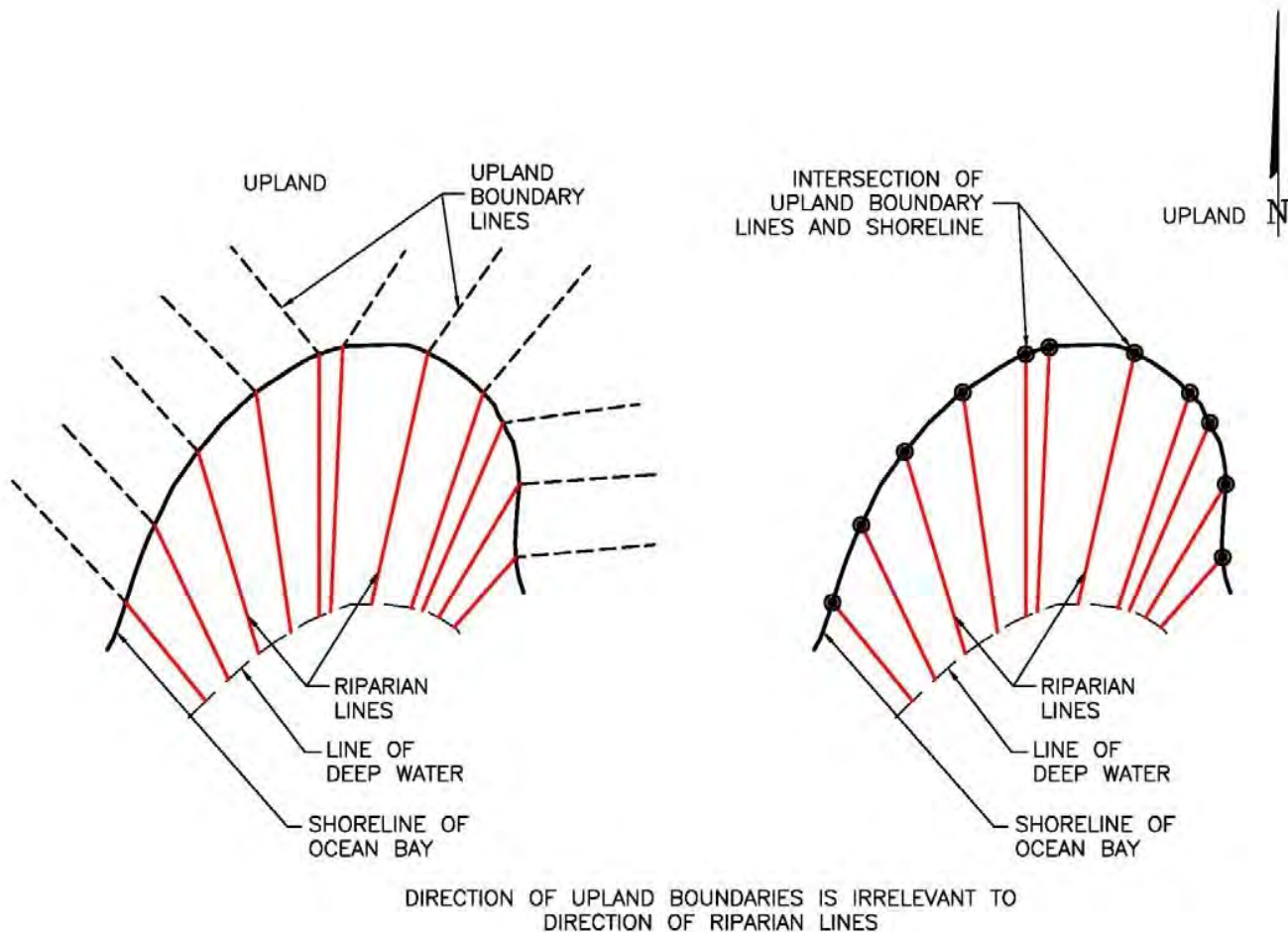
<sup>29</sup> Fla. Admin. Code R. 18-21.008(1)(a)4.f.

<sup>30</sup> 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](https://apps.sfwmd.gov/entsb/docdownload?object_id=0900eeea8a95bcd3) (last visited Jan. 16, 2022).

<sup>31</sup> *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.<sup>32</sup>



### 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

<sup>32</sup> *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 s. 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:**

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **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 section 253.141 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 403.813 and 403.9323.

**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.

CS/HB 841

2022

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; providing definitions;  
8       providing applicability; requiring courts to award  
9       reasonable attorney fees and costs to a prevailing  
10      party in a civil action under certain circumstances;  
11      reenacting ss. 403.813(1)(s) and 403.9323(3), F.S.,  
12      relating to permits issued at district centers and  
13      legislative intent in recognizing rights of riparian  
14      property ownership, respectively, to incorporate the  
15      amendment made to s. 253.141, F.S., in references  
16      thereto; 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, the court shall award reasonable  
61 attorney fees and costs to the prevailing party when such rights  
62 are exercised with all appropriate environmental and regulatory  
63 approvals and permits.

64 Section 2. For the purpose of incorporating the amendment  
65 made by this act to section 253.141, Florida Statutes, in a  
66 reference thereto, paragraph (s) of subsection (1) of section  
67 403.813, Florida Statutes, is reenacted to read:

68 403.813 Permits issued at district centers; exceptions.—

69 (1) A permit is not required under this chapter, chapter  
70 373, chapter 61-691, Laws of Florida, or chapter 25214 or  
71 chapter 25270, 1949, Laws of Florida, and a local government may  
72 not require a person claiming this exception to provide further  
73 department verification, for activities associated with the  
74 following types of projects; however, except as otherwise  
75 provided in this subsection, this subsection does not relieve an

76 applicant from any requirement to obtain permission to use or  
77 occupy lands owned by the Board of Trustees of the Internal  
78 Improvement Trust Fund or a water management district in its  
79 governmental or proprietary capacity or from complying with  
80 applicable local pollution control programs authorized under  
81 this chapter or other requirements of county and municipal  
82 governments:

83 (s) The construction, installation, operation, or  
84 maintenance of floating vessel platforms or floating boat lifts,  
85 provided that such structures:

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

89 2. Are wholly contained within a boat slip previously  
90 permitted under ss. 403.91-403.929, 1984 Supplement to the  
91 Florida Statutes 1983, as amended, or part IV of chapter 373, or  
92 do not exceed a combined total of 500 square feet, or 200 square  
93 feet in an Outstanding Florida Water, when associated with a  
94 dock that is exempt under this subsection or associated with a  
95 permitted dock with no defined boat slip or attached to a  
96 bulkhead on a parcel of land where there is no other docking  
97 structure;

98 3. Are not used for any commercial purpose or for mooring  
99 vessels that remain in the water when not in use, and do not  
100 substantially impede the flow of water, create a navigational

101    hazard, or unreasonably infringe upon the riparian rights of  
102    adjacent property owners, as defined in s. 253.141;

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

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

113  
114    Structures that qualify for this exemption are relieved from any  
115    requirement to obtain permission to use or occupy lands owned by  
116    the Board of Trustees of the Internal Improvement Trust Fund  
117    and, with the exception of those structures attached to a  
118    bulkhead on a parcel of land where there is no docking  
119    structure, may not be subject to any more stringent permitting  
120    requirements, registration requirements, or other regulation by  
121    any local government. Local governments may require either  
122    permitting or one-time registration of floating vessel platforms  
123    to be attached to a bulkhead on a parcel of land where there is  
124    no other docking structure as necessary to ensure compliance  
125    with local ordinances, codes, or regulations. Local governments



CS/HB 841

2022

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 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

151 registration of floating vessel platforms as necessary to ensure  
152 compliance with the general permit in this section; to ensure  
153 compliance with local ordinances, codes, or regulations relating  
154 to building or zoning that are no more stringent than the  
155 general permit in this section; and to ensure proper  
156 installation and maintenance of a floating vessel platform or  
157 floating boat lift that is proposed to be attached to a bulkhead  
158 or parcel of land where there is no other docking structure.

159 Section 3. For the purpose of incorporating the amendment  
160 made by this act to section 253.141, Florida Statutes, in a  
161 reference thereto, subsection (3) of section 403.9323, Florida  
162 Statutes, is reenacted to read:

163 403.9323 Legislative intent.—

164 (3) It is the intent of the Legislature to provide  
165 waterfront property owners their riparian right of view, and  
166 other rights of riparian property ownership as recognized by s.  
167 253.141 and any other provision of law, by allowing mangrove  
168 trimming in riparian mangrove fringes without prior government  
169 approval when the trimming activities will not result in the  
170 removal, defoliation, or destruction of the mangroves.

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

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 841 Residential Property Riparian Rights  
**SPONSOR(S):** Environment, Agriculture & Flooding Subcommittee, DiCeglie  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 840

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Property Rights Subcommittee	18 Y, 0 N	Mawn	Jones
2) Environment, Agriculture & Flooding Subcommittee	15 Y, 0 N, As CS	Gawin	Moore
3) Judiciary Committee			

### SUMMARY ANALYSIS

Riparian rights are rights incident to land bordering navigable waters such as rivers and streams (“riparian land”) and include rights of ingress, egress, boating, bathing, and fishing and to an unobstructed view. Riparian rights also include the right to erect upon the bed and shores adjacent to the riparian land docks and other structures for the riparian land owner’s personal use, subject to the right of the public to use the navigable waters. In other words, structures built on riparian land may not impede navigation or other lawful public uses and generally may not extend beyond the line of navigation. Riparian rights inure to the riparian land owner and are appurtenant to and inseparable from the riparian land. Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running with the land whether or not such rights are mentioned in the deed or lease.

In order for riparian rights to attach, the riparian land must extend to the ordinary high water mark of the navigable water. However, courts have acknowledged that there is no one proper method for establishing riparian rights boundaries, and such rights do not necessarily extend into the waters according to riparian land boundaries. Instead, boundaries must be apportioned and riparian rights determined in accordance with equitable principles, with consideration given to the lay of the shore line, the direction of the waterbody, and the co-relative rights of adjoining riparian land owners. Despite these guidelines, it is possible to have two land surveyors draw riparian boundaries for adjoining properties in two different locations if they use different methods for establishing such boundaries. A riparian land owner who believes that the boundaries of his or her riparian rights have not been properly drawn or his or her riparian rights have been otherwise violated may bring an action for relief in the circuit court where the riparian land is located.

HB 841 establishes a preferred method for 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. Specifically, the bill requires that, when establishing such boundaries after July 1, 2022, a land surveyor must give preference to the “prolongation-of-property-line” method unless doing so would result in inequitable apportionment of riparian rights among other land owners along the channel. Further, the bill provides that, in a civil action relating to a residential dock owner’s riparian rights, when such rights are exercised with all appropriate environmental and regulatory approvals and permits and the defendant prevails, the court must award the defendant his or her reasonable attorney fees and costs.

The bill may have a positive indeterminate fiscal impact on state government but does not appear to have a fiscal impact on local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Riparian Rights

Upon attaining statehood in 1845, Florida “assumed title to and sovereignty over the navigable waters in the state and the lands thereunder” from the submerged bed up to the “ordinary high water mark.”<sup>1</sup> Under the common law Public Trust Doctrine, which recognizes the public’s right to natural resources, navigable rivers, lakes, and tidelands are held in the public trust, and the state has a legal duty to preserve and control such waters for public navigation and other lawful uses.<sup>2</sup>

Riparian rights are rights incident to land bordering navigable waters<sup>3</sup> such as rivers and streams<sup>4</sup> (“riparian land”) and include rights of ingress, egress, boating, bathing, and fishing and to an unobstructed view.<sup>5</sup> Riparian rights also include the right to erect upon the bed and shores adjacent to the riparian land docks and other structures for the riparian land owner’s private use, subject to the right of the public to use the navigable waters and applicable regulatory and environmental approval schemes.<sup>6</sup> Riparian rights, which inure to the riparian land owner, are appurtenant to and inseparable from the riparian land.<sup>7</sup> Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running with the land whether or not such rights are mentioned in the deed or lease.<sup>8</sup>

In order for riparian rights to attach, the riparian land must extend to the ordinary high water mark of the navigable water.<sup>9</sup> However, courts have acknowledged that there is no one proper method for establishing riparian rights boundaries, and such rights do not necessarily extend into the waters according to riparian land boundaries.<sup>10</sup> Instead, such boundaries must be apportioned and riparian rights determined in accordance with equitable principles, with consideration given to the lay of the shore line, the direction of the water body, and the co-relative rights of adjoining riparian land owners.<sup>11</sup> Despite these guidelines, it is possible to have two land surveyors draw riparian boundaries for adjoining properties in two different locations if they use different methods for establishing such boundaries. A riparian land owner who believes that the boundaries of his or her riparian rights have been improperly drawn or his or her riparian rights have been violated may sue for relief in the circuit court where the riparian land is located.<sup>12</sup>

##### Attorney Fees and Costs

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<sup>1</sup> Art. X, s. 11, Fla. Const.; *Merrill-Stevens Co. v. Durkee*, 57 So. 428 (Fla. 1912).

<sup>2</sup> Art. X, s. 11, Fla. Const.; *Coastal Petroleum Co. v. Am. Cyanamid Co.*, 492 So. 2d 339, 342 (Fla 1986); *State ex rel. Ellis v. Gerbing*, 56 Fla 603 (1908).

<sup>3</sup> The test to determine whether water is “navigable water” is whether, at the time Florida joined the United States in 1845, the waterbody was, in its ordinary and natural state, used or capable of being used by any watercraft for a sufficient part of the year as a public highway for commerce. “Navigable waters” in the state do not extend to any permanent or transient waters in the form of so-called lakes, ponds, swamps, or overflowed lands lying over and upon areas which have heretofore been conveyed to private individuals by the United States or by the state without reservation of public rights in and to said waters. *Odum v. Deltona Corp.*, 341 So. 2d 977 (Fla. 1976); S. 253.141(2), F.S.

<sup>4</sup> Riparian rights should not be confused with littoral rights, which are rights incident to land bordering non-flowing waterbodies, such as lakes, ponds, seas, oceans, and gulfs.

<sup>5</sup> S. 253.141, F.S.; *Hayes v. Bowman*, 91 So. 2d 795 (Fla. 1957).

<sup>6</sup> The right to build such a structure does not include the right to use the structure for commercial purposes. Further, the Florida Department of Environmental Protection has established a regulatory approval scheme and setback requirements for structures built over submerged sovereign lands, including docks. *Ferry Pass Inspectors’ & Shippers’ Ass’n v. White’s River Inspectors’ & Shippers’ Ass’n*, 48 So. 643 (1909); *Belvedere Dev. Corp. v. Dep’t of Transp.*, 476 So. 2d 649 (Fla. 1985); Fla. Admin. Code R. 18-21.

<sup>7</sup> S. 253.141, F.S.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*; *Thiesen v. Gulf, Fla. & Alabama Railway Co.*, 78 So. 491 (1917).

<sup>10</sup> *Hayes*, 91 So. 2d at 801, 802 (Fla. 1957); *Lake Conway Shores HOA, Inc. v. Driscoll*, 476 So. 2d 1306 (Fla. 5th DCA 1985).

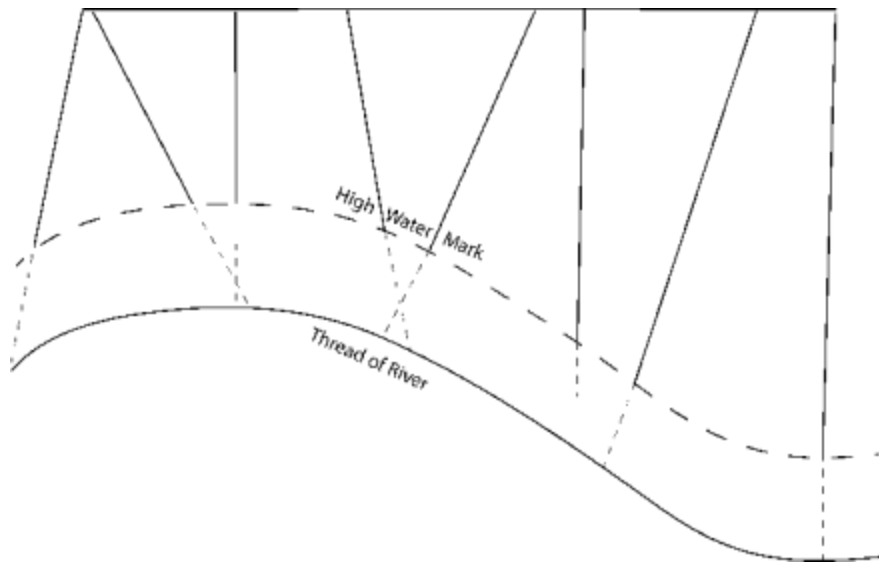
<sup>11</sup> *Id.*

<sup>12</sup> See, e.g., *Id.*

Parties to a civil action must generally pay their own attorney fees and costs regardless of who prevails, unless the fees claim is based on a contract or statute.<sup>13</sup> Statutes authorizing the assessment of attorney fees must do so expressly and be strictly construed.<sup>14</sup> Section 253.141, F.S., which establishes riparian rights in the state, does not authorize the recovery of attorney fees and costs. Thus, attorney fees and costs may only be available in a riparian rights dispute if the offer of judgment statute applies.<sup>15</sup>

### Effect of Proposed Changes

HB 841 establishes a preferred method for establishing the boundaries of a residential property owner's riparian rights along a channel<sup>16</sup> for purposes of the construction of docks, piers, marinas, moorings, pilings, and other private improvements. Specifically, the bill requires that, when establishing such boundaries after July 1, 2022, a land surveyor must give preference to the "prolongation-of-property-line" method, unless doing so would result in inequitable apportionment of riparian rights among other land owners along the channel. The bill defines the "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 water mark. The figure below shows by its dotted lines how the prolongation-of-property line method requires that an owner's riparian rights boundaries are drawn.



Prolongation-of-Property Line Method

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

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 253.141, F.S., relating to riparian rights defined; certain submerged bottoms subject to private ownership.

**Section 2:** Reenacts s. 403.813, F.S., relating to permits issued at district centers, exceptions.

**Section 3:** Reenacts s. 403.9323, F.S., relating to legislative intent.

**Section 4:** Provides an effective date of upon becoming a law.

<sup>13</sup> *Campbell v. Goldman*, 959 So. 2d 223 (Fla. 2007); *Price v. Tyler*, 890 So. 2d 246 (Fla. 2004).

<sup>14</sup> *Sarkis v. Allstate Ins. Co.*, 863 So. 2d 210 (Fla. 2003); *Knealing v. Puleo*, 675 So. 2d 593 (Fla. 1996).

<sup>15</sup> The offer of judgment statute provides that, in any civil action for damages, attorney fees may be awarded following the defendant's provision of an offer of judgment or the plaintiff's provision of a demand for judgment in specified situations. S. 768.79, F.S.

<sup>16</sup> The bill defines "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 a river stream at the point concerned which furnishes uninterruptedly, through its course, the deepest water at ordinary low water. The bill also specifies that its requirements do not apply to littoral waters, such as a lake, ocean, or gulf.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

By providing a preferred method for determining the boundaries of a residential property owner's riparian rights in specified situations, the bill may have a positive indeterminate fiscal impact on the state by reducing litigation in the state court system.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill clarifies the process for drawing the boundaries of a residential property owner's riparian rights in certain situations by establishing a preference for the prolongation-of-property-lines method and may, therefore, reduce:

- Survey costs to residential riparian land owners, as the surveyor can simply extend an upland property boundary if such method is utilized.
- Litigation over riparian rights boundaries.

The bill also allows a prevailing defendant to recover his or her reasonable attorney fees and costs in certain situations.

### 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 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:

Not applicable.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 8, 2022, the Environment, Agriculture & Flooding Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed a provision that would only award reasonable attorney fees and costs to the prevailing party if the defendant was the prevailing party.

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

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

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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/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 October 1, 2022.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 701 Boating and Vessel Safety

**SPONSOR(S):** Environment, Agriculture & Flooding Subcommittee, 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	18 Y, 0 N, As CS	Mamontoff	Moore
3) Commerce Committee		Neuffer	Hamon

### 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 October 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.<sup>1</sup> 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.<sup>2</sup> Of those accidents, 79 resulted in fatalities, with 69% of operators having no formal boater education.<sup>3</sup>

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.<sup>4</sup> 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.<sup>5</sup>

NASBLA provides minimum standards that apply to all basic boating courses in the U.S. and its territories.<sup>6</sup> 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.<sup>7</sup> Courses must additionally cover boat operation, trip planning, and emergency preparation.<sup>8</sup> There are several courses within the state of Florida which meet NASBLA's 8-hour instruction requirement, ranging from no cost to \$50.<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup>

Federal law requires any individual operating a covered recreational vessel<sup>12</sup> to use an engine cut-off switch link while operating on plane or above displacement speed.<sup>13</sup> 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.<sup>14</sup> Engine cut-off switches are normally coiled bungee cords but can also be electronic wireless devices. They operate to

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<sup>1</sup> Art. IV, s. 9, Fla. Const.

<sup>2</sup> 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).

<sup>3</sup>*Id.*

<sup>4</sup> See s. 327.395(6)(a)-(g), F.S., (listing exemptions from the boating safety education course requirement).

<sup>5</sup> S. 327.395(2), F.S.

<sup>6</sup> See ANSI/NASBLA, *103-2016: Basic Boating Knowledge – Power* (November 18, 2015).

<sup>7</sup> 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).

<sup>8</sup> *Id.*

<sup>9</sup> FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited January 4, 2022).

<sup>10</sup> S. 327.395(5), F.S.

<sup>11</sup> S. 327.50, F.S.

<sup>12</sup> 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).

<sup>13</sup> 46 U.S.C. § 4312(b).

<sup>14</sup> 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.<sup>15</sup> 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,<sup>16</sup> \$250 for the second offense,<sup>17</sup> and \$500 for any subsequent offense.<sup>18</sup> 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.<sup>19</sup> 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.<sup>20</sup>

Florida's current law provides a similar mandate but only for personal watercraft, commonly identified as jet skis.<sup>21</sup>

## 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 of October 1, 2022.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
- None.

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<sup>15</sup> USCG, *Engine Cut-Off Switches*, *supra*.

<sup>16</sup> 46 U.S.C. § 4311(c)(1).

<sup>17</sup> 46 U.S.C. § 4311(c)(2).

<sup>18</sup> 46 U.S.C. § 4311(c)(3).

<sup>19</sup> United States Coast Guard, *Engine Cut-Off Switches*, <https://uscgboating.org/recreational-boaters/engine-cut-off-devices.php> (last visited January 4, 2022).

<sup>20</sup> 46 U.S.C. § 4312(b)(2).

<sup>21</sup> 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 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 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.

On February 8, 2022, the Environment, Agriculture & Flooding Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date to of October 1, 2022.

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





By the Committees on Community Affairs; and Environment and Natural Resources; and Senator Rodriguez

578-02650-22

20221432c2

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 construction; 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

578-02650-22

20221432c2

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

578-02650-22

20221432c2

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~~

578-02650-22

20221432c2

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 (f) This subsection may not be construed to prohibit  
111 anchoring for less than 90 days in areas within Monroe County.

112 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.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/CS/SB 1432

INTRODUCER: Community Affairs Committee, Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Vessel Anchoring

DATE: February 14, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	<b>Fav/CS</b>
2.	Hackett	Ryon	CA	<b>Fav/CS</b>
3.	Carroll	Phelps	RC	<b>Pre-meeting</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/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,<sup>1</sup> beneath navigable fresh water or tidally-influenced waters.<sup>2</sup> Under the Florida Constitution, the title to all sovereign submerged lands is held by the state in trust for the people.<sup>3</sup> The public generally has the right to use sovereign submerged lands for traditional recreational purposes such as swimming, boating, and fishing.<sup>4</sup>

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.<sup>5</sup> 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.<sup>6</sup>

Rule 18-21.0041 specifically addresses leases, easements, or consent to use sovereignty submerged lands in Monroe County for multi-slip docking facilities.<sup>7</sup> 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.<sup>8</sup> 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;

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<sup>1</sup> 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.

<sup>2</sup> Fla. Admin. Code R. 18-21.003(67).

<sup>3</sup> FLA. CONST. art. X, s. 11.

<sup>4</sup> 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).

<sup>5</sup> Sections 253.03 and 253.12(1), F.S.

<sup>6</sup> *See* Fla. Admin. Code R. 18-21.005.

<sup>7</sup> 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).

<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup>

### **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.<sup>11</sup> The Boating and Waterways Section takes public input and provides notice of proposed local boating-restricted areas.<sup>12</sup>

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.<sup>13</sup> The

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<sup>9</sup> Fla. Admin. Code R. 18-20.003(2).

<sup>10</sup> Fla. Admin. Code R. 18-20.003(3).

<sup>11</sup> FWC, *Waterway Management*, <https://myfwc.com/boating/waterway/> (last visited Jan. 11, 2022).

<sup>12</sup> *Id.*

<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup>

### **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.<sup>16</sup> 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.<sup>17</sup>

### ***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.<sup>18</sup> 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.<sup>19</sup>

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures<sup>20</sup> or live-aboard vessels<sup>21</sup> within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.<sup>22</sup> However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or

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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.

<sup>14</sup> Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Jan. 11, 2022).

<sup>15</sup> FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Jan. 11, 2022). See s. 327.70(1) and (4), F.S.

<sup>16</sup> 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.

<sup>17</sup> 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](https://www.flseagrant.org/wp-content/uploads/anchoring_away_5_12_update_web.pdf) (last visited Jan. 11, 2022).

<sup>18</sup> See s. 373.118, F.S., and Fla. Admin. Code R. 62-330.420(1).

<sup>19</sup> See Fla. Admin. Code R. 62-330.420.

<sup>20</sup> 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."

<sup>21</sup> 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."

<sup>22</sup> 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.<sup>23</sup>

### ***Anchoring Limitation Areas***

State law designates certain densely populated urban areas as anchoring limitation areas.<sup>24</sup> These areas usually have narrow state waterways, residential docking facilities, and significant recreational boating traffic.<sup>25</sup> Counties may create more anchoring limitation areas under certain circumstances.<sup>26</sup>

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.<sup>27</sup> FWC adopts rules to implement this.<sup>28</sup> 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.<sup>29</sup>

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;<sup>30</sup> or
- Certain government, construction, and fishing vessels.<sup>31</sup>

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.<sup>32</sup>

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.<sup>33</sup>

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<sup>23</sup> Section 327.60(2)(f), F.S.

<sup>24</sup> Section 327.4108(1), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*; Section 327.4108(2), F.S.

<sup>27</sup> Section 327.4108(3), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Section 327.4108(3), F.S.; *see also* s. 327.48, F.S.

<sup>31</sup> Section 327.4108(4), F.S.

<sup>32</sup> Section 327.4108(5), F.S.

<sup>33</sup> *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.<sup>34</sup>

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.<sup>35</sup>

### **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.<sup>36</sup> 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).<sup>37</sup>

Raw sewage cannot be discharged from any vessel or any floating structure in Florida waters.<sup>38</sup> All waste from Type III marine sanitation devices must be disposed of in an approved sewage pump-out facility.<sup>39</sup> A violation of the marine sanitation laws is a noncriminal infraction.<sup>40</sup>

### **No-Discharge Zones**

A no-discharge zone is a designated body of water that prohibits the discharge of treated and untreated boat sewage.<sup>41</sup> 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.

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<sup>34</sup> Section 327.73(1)(z), F.S.

<sup>35</sup> Sections 775.082 and 775.083, F.S.

<sup>36</sup> Section 327.02, F.S.

<sup>37</sup> EPA, *Marine Sanitation Devices (MSDs)*, <https://www.epa.gov/vessels-marinas-and-ports/marine-sanitation-devices-msds> (last visited Jan. 11, 2022).

<sup>38</sup> Section 327.53(4), F.S.

<sup>39</sup> *Id.*

<sup>40</sup> Section 327.53(6)(a), F.S.

<sup>41</sup> 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,<sup>42</sup> the city of Key West waters,<sup>43</sup> and the state waters within the Florida Keys National Marine Sanctuary.<sup>44</sup>

### 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,<sup>45</sup> 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.

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<sup>42</sup> Marine Sanitation Device Standard for Destin Harbor, 53 Fed. Reg. 1,678 (Jan. 21, 1988).

<sup>43</sup> City of Key West No Discharge Zone Determination, 64 Fed. Reg. 46,390 (Aug. 25, 1999).

<sup>44</sup> 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).

<sup>45</sup> "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.

The bill finally clarifies that it may not be construed to prohibit anchoring for less than 90 days within Monroe County.

**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.<sup>46</sup> 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.<sup>47</sup> 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.<sup>48</sup> 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.<sup>49</sup> 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.<sup>50</sup> 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.<sup>51</sup>

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.

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<sup>46</sup> 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>.

<sup>47</sup> *Id.* at 1-2.

<sup>48</sup> *Id.* at 2.

<sup>49</sup> *Id.* at 2-3.

<sup>50</sup> *Id.* at 3.

<sup>51</sup> *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/CS by Community Affairs on February 2, 2022:**

The CS clarifies that the bill may not be construed to prohibit anchoring for less than 90 days within Monroe County.

**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:

HB 1065

2022

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 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 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



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

HB 1065

2022

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

HB 1065

2022

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.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1065 Vessel Anchoring  
**SPONSOR(S):** Mooney  
**TIED BILLS:** IDEN./SIM. BILLS: CS/CS/SB 1432

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee	16 Y, 0 N	Gawin	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	White	Pigott
3) State Affairs Committee			

### SUMMARY ANALYSIS

Current law designates certain densely populated urban areas that have narrow state waterways, residential docking facilities, and significant boating traffic as anchoring limitation areas. In an anchoring limitation area, a person is prohibited from anchoring a vessel at any time during the period between one half-hour after sunset and one half-hour before sunrise. The Division of Law Enforcement of the Fish and Wildlife Conservation Commission (FWC) and its officers, county sheriffs and deputies, and municipal police officers typically enforce anchoring limitation areas. In 2021, the Legislature designated Monroe County as an anchoring limitation area where a vessel on waters of the state can only anchor in the same location for a maximum of 90 days. The establishment of Monroe County as an anchoring limitation area does not take effect until Monroe County approves, permits, and opens new moorings for public use, including 250 moorings within one mile of Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field.

The bill specifies 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 primary residence.

The bill clarifies requirements related to the designation of Monroe County as an anchoring limitation area. Specifically, the bill requires each vessel anchored on state waters within 10 nautical miles of a public mooring field or a designated anchoring area to pull anchor, move from its location using its propulsion system, and re-anchor in a new location no less than once every 90 days.

The bill specifies that these requirements do not apply to vessels moored to approved and permitted moorings. Additionally, until at least 100 new moorings are available for public use within one mile of Key West Bight City Dock, these requirements do not apply to live-aboard vessels on state waters within Monroe County.

The bill requires certain vessels within Monroe County on state waters 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.

The bill may have an insignificant negative fiscal impact on the state that can be absorbed within existing resources.

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

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h1065c.ANR

DATE: 2/14/2022

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### 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, while mooring uses fixtures, known as moorings, permanently affixed to the bottom of the water body.<sup>1</sup> 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.<sup>2</sup>

##### *State Regulation of the Anchoring or Mooring of Vessels*

The Legislature has delegated the responsibility of managing sovereign submerged lands to the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund (Board).<sup>3</sup> Pursuant to this responsibility, the Board is authorized to adopt rules governing anchoring, mooring, or otherwise attaching vessels, floating homes, or any other watercraft to the bottom of sovereign submerged lands.<sup>4</sup> The Board has adopted rules regulating the construction of mooring and docking structures on such lands,<sup>5</sup> but has not exercised its authority to adopt rules regulating anchoring.

Florida law prohibits a person from anchoring a vessel, except in case of emergency, in a manner that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel.<sup>6</sup> Anchoring under bridges or in or adjacent to heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.<sup>7</sup> Interference with navigation is a noncriminal infraction and punishable by a fine of \$50.<sup>8</sup>

With certain exceptions, the owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:

- Within 150 feet of any marina, boat ramp, boatyard, or vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility; or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the local government within which the mooring field is located.<sup>9</sup>

Additionally, the owner or operator of a vessel or floating structure may not anchor or moor within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.<sup>10</sup>

An owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility; within 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field if:

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<sup>1</sup> Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2

(March 2011), available at

[https://www.cityofmarcoisland.com/sites/default/files/fileattachments/administration/page/7491/anchoring\\_away\\_03\\_09\\_11\\_full\\_web\\_3.pdf](https://www.cityofmarcoisland.com/sites/default/files/fileattachments/administration/page/7491/anchoring_away_03_09_11_full_web_3.pdf) (last visited Jan. 30, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> Section 253.03(1), F.S.

<sup>4</sup> Section 253.03(7), F.S.

<sup>5</sup> See ch. 18-21, F.A.C.

<sup>6</sup> Section 327.44(2), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 327.73(j), F.S.

<sup>9</sup> Section 327.4109(1), F.S.

<sup>10</sup> Section 327.4109(3), F.S.

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard the vessel. The owner or operator of the vessel may anchor or moor for five business days or until the vessel is repaired, whichever occurs first.
- Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard the vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk.<sup>11</sup>

A vessel or floating structure may not be anchored, moored, or affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of state waters. This does not apply to a mooring owned by a private individual or entity who owns submerged lands.<sup>12</sup>

#### *Local Regulation of the 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.<sup>13</sup> Mooring fields must be located in areas 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.<sup>14</sup>

Local governments are further authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures<sup>15</sup> or live-aboard vessels<sup>16</sup> within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.<sup>17</sup> However, they are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.<sup>18</sup>

#### *Anchoring Limitation Areas*

Current law designates certain densely populated urban areas that have narrow state waterways, residential docking facilities, and significant recreational boating traffic as anchoring limitation areas.<sup>19</sup> The following areas are designated in statute as anchoring limitation areas:

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County.
- Sunset Lake in Miami-Dade County.
- The sections of Biscayne Bay in Miami-Dade County lying between Rivo Alto Island and Di Lido Island, San Marino Island and San Marco Island, and San Marco Island and Biscayne Island.<sup>20</sup>

In an anchoring limitation area, a person is prohibited from anchoring a vessel at any time during the period between one half-hour after sunset and one half-hour before sunrise.<sup>21</sup> However, a person may anchor in an anchoring limitation area if:

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<sup>11</sup> Section 327.4109(2), F.S.

<sup>12</sup> Section 327.4019(4), F.S.

<sup>13</sup> Section 373.118, F.S.; r. 62-330.420(1), F.A.C.

<sup>14</sup> Rule 62-330.420, F.A.C.

<sup>15</sup> Section 327.02(14), F.S., defines “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.

<sup>16</sup> Section 327.02(22), F.S., defines “live-aboard vessel” as a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats.

<sup>17</sup> Section 327.60(2)(f), F.S.

<sup>18</sup> Section 327.60(3), F.S.

<sup>19</sup> Section 327.4108, F.S.

<sup>20</sup> Section 327.4108(1), F.S.

<sup>21</sup> Section 327.4108(2), F.S.

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the people onboard unless the vessel anchors;
- Imminent or existing weather conditions in the vicinity pose an unreasonable risk of harm to the vessel or the people onboard unless the vessel anchors; or
- The vessel is attending a regatta, race, marine parade, tournament, exhibition,<sup>22</sup> or other special event, including, but not limited to, public music performances, local government waterfront activities, or a fireworks display.<sup>23</sup>

The Division of Law Enforcement of the Fish and Wildlife Conservation Commission (FWC) and its officers, county sheriffs and deputies, and municipal police officers typically enforce anchoring limitation areas.<sup>24</sup> Such law enforcement officers are authorized to remove and impound a vessel that, after being issued a citation for violation of the anchoring limitation area, anchors the vessel in the anchoring limitation area within 12 hours after being issued the citation or refuses to leave the anchoring limitation area after being directed to do so by law enforcement.<sup>25</sup>

Anchoring limitation areas do not apply to vessels owned or operated by a governmental entity for law enforcement, firefighting, military, or rescue purposes; construction or dredging vessels on an active job site; vessels actively engaged in commercial fishing; or vessels engaged in recreational fishing if the individuals on board are actively tending hook and line fishing gear or nets.<sup>26</sup>

#### *Monroe County Anchoring Limitation Area*

In 2021, the Legislature authorized counties, except for Monroe County, to establish anchoring limitation areas adjacent to urban areas that have residential docking facilities and significant recreational boating traffic.<sup>27</sup> Monroe County was designated as an anchoring limitation area within which a vessel on state waters can only anchor in the same location for a maximum of 90 days.<sup>28</sup> However, the establishment of Monroe County as an anchoring limitation area does not take effect until the county approves, permits, and opens new moorings for public use, including at least 250 moorings within one mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field.<sup>29</sup>

The Key West Bight City Dock, pictured below, is located on the Palm Avenue Causeway in Garrison Bight.

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<sup>22</sup> Section 327.48, F.S.

<sup>23</sup> Section 327.4108(3), F.S.

<sup>24</sup> Section 327.70(1), F.S.

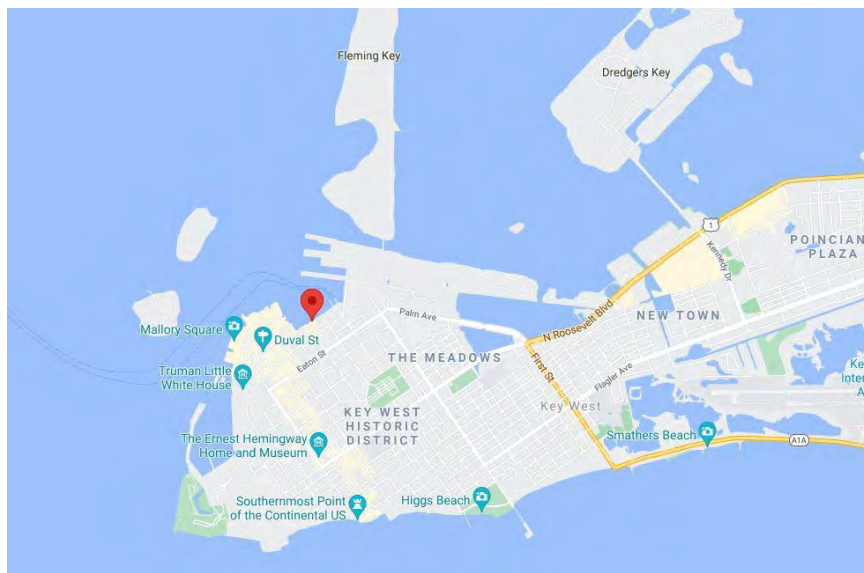
<sup>25</sup> Section 327.4108(5)(b), F.S.

<sup>26</sup> Section 327.4108(4), F.S.

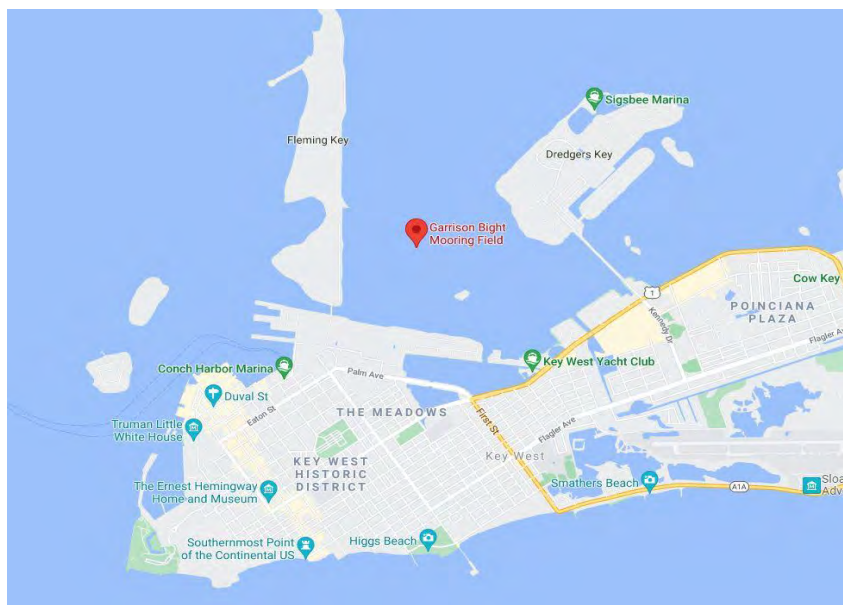
<sup>27</sup> Section 327.4108(2)(a), F.S.

<sup>28</sup> Section 327.4108(3)(a), F.S.

<sup>29</sup> Section 327.4108(3)(c), F.S.



The Key West Garrison Bight Mooring Field, pictured below, is located between Fleming Key and Sigsbee Park.



### Marine Sanitation Devices

Vessels that are equipped with installed toilets and operating on United States navigable waters are required to have U.S. Coast Guard certified marine sanitation devices on board.<sup>30</sup> A marine sanitation device is equipment, other than a toilet, for installation on board a vessel that is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage.<sup>31</sup> The U.S. Coast Guard categorizes marine sanitation devices into Type I, Type II, and Type III devices. A Type I device is a flow-through treatment device that commonly uses maceration and disinfection for the treatment of sewage; Type II devices are flow-through treatment devices that may employ biological treatment and disinfection; and Type III devices are typically a holding tank where sewage is stored until it can be discharged shore-side or beyond three miles from shore.<sup>32</sup>

<sup>30</sup> 33 U.S.C. 1322.

<sup>31</sup> Section 327.02(27), F.S.

<sup>32</sup> U.S. Environmental Protection Agency (EPA), *Marine Sanitation Devices (MSDs)*, <https://www.epa.gov/vessels-marinas-and-ports/marine-sanitation-devices-msds> (last visited Jan. 30, 2022).



Raw sewage cannot be discharged from any vessel or any floating structure in Florida waters.<sup>33</sup> All waste from Type III marine sanitation devices must be disposed of in an approved sewage pump-out facility.<sup>34</sup> A violation of the marine sanitation laws is a noncriminal infraction.<sup>35</sup>

### No-Discharge Zones

A no-discharge zone is a designated body of water where it is unlawful to discharge treated or untreated boat sewage.<sup>36</sup> Within the boundaries of a no-discharge zone, vessel operators are required to retain their sewage discharges onboard for discharge beyond three miles from the Atlantic shore and beyond nine miles from the Gulf shore or onshore at a pump-out facility. Currently, Florida has three designated no-discharge zones within Destin Harbor,<sup>37</sup> the city of Key West waters,<sup>38</sup> and the state waters within the Florida Keys National Marine Sanctuary.<sup>39</sup>

### **Effect of the Bill**

The bill specifies that, notwithstanding any other law, 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 may not exceed 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 the tenancy of a vessel because an individual has established it as his or her domicile or because the vessel is an individual's primary residence.

The bill revises the requirements that apply to vessels in the Monroe County anchoring limitation area. Specifically, the bill requires each vessel anchored within Monroe County on state waters within 10 nautical miles of a public mooring field or a designated anchoring area to pull anchor, move from its location using its propulsion system, and re-anchor in a new location no less than once every 90 days. The bill requires the new location to 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.

The bill specifies that these requirements do not apply to vessels moored to approved and permitted moorings.

Additionally, the bill revises the circumstances under which the requirements of the Monroe County anchoring limitation area take effect. Specifically, the bill provides that such requirements do not apply to live-aboard vessels until at least 100 new moorings are available for public use within one mile of Key West Bight City Dock. The bill removes the requirement that at least 50 moorings must be established within the Key West Garrison Bight Mooring Field.

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<sup>33</sup> Section 327.53(4)(a), F.S.

<sup>34</sup> Section 327.53(4)(b), F.S.

<sup>35</sup> Section 327.53(6)(a), F.S.

<sup>36</sup> EPA, *Vessel Sewage Discharges: No-Discharge Zones*, <https://www.epa.gov/vessels-marinas-and-ports/vessel-sewage-no-discharge-zones> (last visited Jan. 30, 2022).

<sup>37</sup> Marine Sanitation Device Standard for Destin Harbor, 53 Fed. Reg. 1,678 (Jan. 21, 1988) available at [https://www.epa.gov/sites/default/files/2015-09/documents/53\\_fr\\_1678.pdf](https://www.epa.gov/sites/default/files/2015-09/documents/53_fr_1678.pdf) (last visited Jan. 30, 2022).

<sup>38</sup> City of Key West No Discharge Zone Determination, 64 Fed. Reg. 46,390 (Aug. 25, 1999) available at <https://www.govinfo.gov/content/pkg/FR-1999-08-25/pdf/99-22044.pdf#page=1> (last visited Jan. 30, 2022).

<sup>39</sup> 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) available at <https://www.govinfo.gov/content/pkg/FR-2002-05-21/pdf/02-12283.pdf#page=1> (last visited Jan. 30, 2022); The Florida Keys National Marine Sanctuary protects the 3,800 square miles of waters surrounding the Florida Keys from Miami to the Tortugas. National Oceanic & Atmospheric Administration, *About Florida Keys National Marine Sanctuary*, <https://floridakeys.noaa.gov/about/welcome.html?s=about> (last visited Jan. 30, 2022).

The bill requires FWC, in consultation with Monroe County and the Florida Keys National Marine Sanctuary, to 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 into and out of 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, certain areas where anchoring is prohibited by state law, or any other lawfully established areas that prohibit anchoring.

The bill provides that certain vessels within Monroe County on state waters that 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 device. Such pump-out must occur every 30 days, and the record must be maintained for one year after the date of the pump-out. These requirements apply to 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; and
- A vessel moored in a public mooring field.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 253.0346, F.S., related to the lease of sovereignty submerged lands for marinas, boatyards, and marine retailers.

Section 2. Amends s. 327.4108, F.S., related to anchoring limitation areas.

Section 3. Provides an effective date of July 1, 2022.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

The bill may have an insignificant negative fiscal impact on FWC related to the costs associated with the rulemaking requirements of the bill. These costs can be absorbed within existing resources.

#### 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 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:

General and Special Laws

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.<sup>40</sup> 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.<sup>41</sup> 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.<sup>42</sup> 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.<sup>43</sup> 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.<sup>44</sup> 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.<sup>45</sup>

The bill amends statutes relating to vessel anchoring and mooring and documentation of marine sanitation device pump-out in Monroe County.

B. RULE-MAKING AUTHORITY:

The bill requires FWC, in consultation with Monroe County and the Florida Keys National Marine Sanctuary, to establish by rule designated anchoring areas throughout the County.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

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<sup>40</sup> *State ex rel. Landis v. Harris*, 163 So. 237, 240, 120 Fla. 555, 562-563 (Fla. 1934).

<sup>41</sup> *Fla. Dep't of Bus. & Prof'l Regulation v. Gulfstream Park Racing Ass'n, Inc.*, 967 So. 2d 802, 808-09 (Fla. 2007).

<sup>42</sup> *City of Miami Beach v. Frankel*, 363 So. 2d 555 (Fla. 1978).

<sup>43</sup> *License Acquisitions, LLC v. Debary Real Estate Holdings, LLC*, 155 So. 3d 1137, 1142-1143 (Fla. 2015).

<sup>44</sup> Art. III, s. 10, Fla. Const.

<sup>45</sup> *License Acquisitions, LLC*, 155 So. 3d at 1142-1143.

CS/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 October 1, 2022.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 701 Boating and Vessel Safety

**SPONSOR(S):** Environment, Agriculture & Flooding Subcommittee, 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	18 Y, 0 N, As CS	Mamontoff	Moore
3) Commerce Committee		Neuffer	Hamon

### 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 October 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.<sup>1</sup> 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.<sup>2</sup> Of those accidents, 79 resulted in fatalities, with 69% of operators having no formal boater education.<sup>3</sup>

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.<sup>4</sup> 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.<sup>5</sup>

NASBLA provides minimum standards that apply to all basic boating courses in the U.S. and its territories.<sup>6</sup> 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.<sup>7</sup> Courses must additionally cover boat operation, trip planning, and emergency preparation.<sup>8</sup> There are several courses within the state of Florida which meet NASBLA's 8-hour instruction requirement, ranging from no cost to \$50.<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup>

Federal law requires any individual operating a covered recreational vessel<sup>12</sup> to use an engine cut-off switch link while operating on plane or above displacement speed.<sup>13</sup> 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.<sup>14</sup> Engine cut-off switches are normally coiled bungee cords but can also be electronic wireless devices. They operate to

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<sup>1</sup> Art. IV, s. 9, Fla. Const.

<sup>2</sup> 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).

<sup>3</sup>*Id.*

<sup>4</sup> See s. 327.395(6)(a)-(g), F.S., (listing exemptions from the boating safety education course requirement).

<sup>5</sup> S. 327.395(2), F.S.

<sup>6</sup> See ANSI/NASBLA, *103-2016: Basic Boating Knowledge – Power* (November 18, 2015).

<sup>7</sup> 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).

<sup>8</sup> *Id.*

<sup>9</sup> FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited January 4, 2022).

<sup>10</sup> S. 327.395(5), F.S.

<sup>11</sup> S. 327.50, F.S.

<sup>12</sup> 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).

<sup>13</sup> 46 U.S.C. § 4312(b).

<sup>14</sup> 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.<sup>15</sup> 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,<sup>16</sup> \$250 for the second offense,<sup>17</sup> and \$500 for any subsequent offense.<sup>18</sup> 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.<sup>19</sup> 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.<sup>20</sup>

Florida's current law provides a similar mandate but only for personal watercraft, commonly identified as jet skis.<sup>21</sup>

## 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 of October 1, 2022.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
- None.

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<sup>15</sup> USCG, *Engine Cut-Off Switches*, *supra*.

<sup>16</sup> 46 U.S.C. § 4311(c)(1).

<sup>17</sup> 46 U.S.C. § 4311(c)(2).

<sup>18</sup> 46 U.S.C. § 4311(c)(3).

<sup>19</sup> United States Coast Guard, *Engine Cut-Off Switches*, <https://uscgboating.org/recreational-boaters/engine-cut-off-devices.php> (last visited January 4, 2022).

<sup>20</sup> 46 U.S.C. § 4312(b)(2).

<sup>21</sup> 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 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 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.

On February 8, 2022, the Environment, Agriculture & Flooding Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date to of October 1, 2022.

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



CS/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 October 1, 2022.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 701 Boating and Vessel Safety

**SPONSOR(S):** Environment, Agriculture & Flooding Subcommittee, 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	18 Y, 0 N, As CS	Mamontoff	Moore
3) Commerce Committee		Neuffer	Hamon

### 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 October 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.<sup>1</sup> 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.<sup>2</sup> Of those accidents, 79 resulted in fatalities, with 69% of operators having no formal boater education.<sup>3</sup>

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.<sup>4</sup> 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.<sup>5</sup>

NASBLA provides minimum standards that apply to all basic boating courses in the U.S. and its territories.<sup>6</sup> 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.<sup>7</sup> Courses must additionally cover boat operation, trip planning, and emergency preparation.<sup>8</sup> There are several courses within the state of Florida which meet NASBLA's 8-hour instruction requirement, ranging from no cost to \$50.<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup>

Federal law requires any individual operating a covered recreational vessel<sup>12</sup> to use an engine cut-off switch link while operating on plane or above displacement speed.<sup>13</sup> 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.<sup>14</sup> Engine cut-off switches are normally coiled bungee cords but can also be electronic wireless devices. They operate to

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<sup>1</sup> Art. IV, s. 9, Fla. Const.

<sup>2</sup> 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).

<sup>3</sup>*Id.*

<sup>4</sup> See s. 327.395(6)(a)-(g), F.S., (listing exemptions from the boating safety education course requirement).

<sup>5</sup> S. 327.395(2), F.S.

<sup>6</sup> See ANSI/NASBLA, *103-2016: Basic Boating Knowledge – Power* (November 18, 2015).

<sup>7</sup> 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).

<sup>8</sup> *Id.*

<sup>9</sup> FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited January 4, 2022).

<sup>10</sup> S. 327.395(5), F.S.

<sup>11</sup> S. 327.50, F.S.

<sup>12</sup> 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).

<sup>13</sup> 46 U.S.C. § 4312(b).

<sup>14</sup> 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.<sup>15</sup> 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,<sup>16</sup> \$250 for the second offense,<sup>17</sup> and \$500 for any subsequent offense.<sup>18</sup> 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.<sup>19</sup> 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.<sup>20</sup>

Florida's current law provides a similar mandate but only for personal watercraft, commonly identified as jet skis.<sup>21</sup>

## 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 of October 1, 2022.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
- None.

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<sup>15</sup> USCG, *Engine Cut-Off Switches*, *supra*.

<sup>16</sup> 46 U.S.C. § 4311(c)(1).

<sup>17</sup> 46 U.S.C. § 4311(c)(2).

<sup>18</sup> 46 U.S.C. § 4311(c)(3).

<sup>19</sup> United States Coast Guard, *Engine Cut-Off Switches*, <https://uscgboating.org/recreational-boaters/engine-cut-off-devices.php> (last visited January 4, 2022).

<sup>20</sup> 46 U.S.C. § 4312(b)(2).

<sup>21</sup> 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 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 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.

On February 8, 2022, the Environment, Agriculture & Flooding Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date to of October 1, 2022.

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





By the Committees on Community Affairs; and Environment and Natural Resources; and Senator Rodriguez

578-02650-22

20221432c2

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 construction; 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

578-02650-22

20221432c2

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

578-02650-22

20221432c2

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~~

578-02650-22

20221432c2

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 (f) This subsection may not be construed to prohibit  
111 anchoring for less than 90 days in areas within Monroe County.

112 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.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/CS/SB 1432

INTRODUCER: Community Affairs Committee, Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Vessel Anchoring

DATE: February 14, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	<b>Fav/CS</b>
2.	Hackett	Ryon	CA	<b>Fav/CS</b>
3.	Carroll	Phelps	RC	<b>Pre-meeting</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/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,<sup>1</sup> beneath navigable fresh water or tidally-influenced waters.<sup>2</sup> Under the Florida Constitution, the title to all sovereign submerged lands is held by the state in trust for the people.<sup>3</sup> The public generally has the right to use sovereign submerged lands for traditional recreational purposes such as swimming, boating, and fishing.<sup>4</sup>

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.<sup>5</sup> 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.<sup>6</sup>

Rule 18-21.0041 specifically addresses leases, easements, or consent to use sovereignty submerged lands in Monroe County for multi-slip docking facilities.<sup>7</sup> 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.<sup>8</sup> 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;

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<sup>1</sup> 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.

<sup>2</sup> Fla. Admin. Code R. 18-21.003(67).

<sup>3</sup> FLA. CONST. art. X, s. 11.

<sup>4</sup> 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).

<sup>5</sup> Sections 253.03 and 253.12(1), F.S.

<sup>6</sup> *See* Fla. Admin. Code R. 18-21.005.

<sup>7</sup> 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).

<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup>

### **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.<sup>11</sup> The Boating and Waterways Section takes public input and provides notice of proposed local boating-restricted areas.<sup>12</sup>

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.<sup>13</sup> The

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<sup>9</sup> Fla. Admin. Code R. 18-20.003(2).

<sup>10</sup> Fla. Admin. Code R. 18-20.003(3).

<sup>11</sup> FWC, *Waterway Management*, <https://myfwc.com/boating/waterway/> (last visited Jan. 11, 2022).

<sup>12</sup> *Id.*

<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup>

### **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.<sup>16</sup> 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.<sup>17</sup>

### ***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.<sup>18</sup> 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.<sup>19</sup>

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures<sup>20</sup> or live-aboard vessels<sup>21</sup> within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.<sup>22</sup> However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or

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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.

<sup>14</sup> Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Jan. 11, 2022).

<sup>15</sup> FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Jan. 11, 2022). See s. 327.70(1) and (4), F.S.

<sup>16</sup> 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.

<sup>17</sup> 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](https://www.flseagrant.org/wp-content/uploads/anchoring_away_5_12_update_web.pdf) (last visited Jan. 11, 2022).

<sup>18</sup> See s. 373.118, F.S., and Fla. Admin. Code R. 62-330.420(1).

<sup>19</sup> See Fla. Admin. Code R. 62-330.420.

<sup>20</sup> 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."

<sup>21</sup> 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."

<sup>22</sup> 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.<sup>23</sup>

### ***Anchoring Limitation Areas***

State law designates certain densely populated urban areas as anchoring limitation areas.<sup>24</sup> These areas usually have narrow state waterways, residential docking facilities, and significant recreational boating traffic.<sup>25</sup> Counties may create more anchoring limitation areas under certain circumstances.<sup>26</sup>

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.<sup>27</sup> FWC adopts rules to implement this.<sup>28</sup> 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.<sup>29</sup>

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;<sup>30</sup> or
- Certain government, construction, and fishing vessels.<sup>31</sup>

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.<sup>32</sup>

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.<sup>33</sup>

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<sup>23</sup> Section 327.60(2)(f), F.S.

<sup>24</sup> Section 327.4108(1), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*; Section 327.4108(2), F.S.

<sup>27</sup> Section 327.4108(3), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Section 327.4108(3), F.S.; *see also* s. 327.48, F.S.

<sup>31</sup> Section 327.4108(4), F.S.

<sup>32</sup> Section 327.4108(5), F.S.

<sup>33</sup> *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.<sup>34</sup>

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.<sup>35</sup>

### **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.<sup>36</sup> 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).<sup>37</sup>

Raw sewage cannot be discharged from any vessel or any floating structure in Florida waters.<sup>38</sup> All waste from Type III marine sanitation devices must be disposed of in an approved sewage pump-out facility.<sup>39</sup> A violation of the marine sanitation laws is a noncriminal infraction.<sup>40</sup>

### **No-Discharge Zones**

A no-discharge zone is a designated body of water that prohibits the discharge of treated and untreated boat sewage.<sup>41</sup> 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.

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<sup>34</sup> Section 327.73(1)(z), F.S.

<sup>35</sup> Sections 775.082 and 775.083, F.S.

<sup>36</sup> Section 327.02, F.S.

<sup>37</sup> EPA, *Marine Sanitation Devices (MSDs)*, <https://www.epa.gov/vessels-marinas-and-ports/marine-sanitation-devices-msds> (last visited Jan. 11, 2022).

<sup>38</sup> Section 327.53(4), F.S.

<sup>39</sup> *Id.*

<sup>40</sup> Section 327.53(6)(a), F.S.

<sup>41</sup> 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,<sup>42</sup> the city of Key West waters,<sup>43</sup> and the state waters within the Florida Keys National Marine Sanctuary.<sup>44</sup>

### 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,<sup>45</sup> 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.

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<sup>42</sup> Marine Sanitation Device Standard for Destin Harbor, 53 Fed. Reg. 1,678 (Jan. 21, 1988).

<sup>43</sup> City of Key West No Discharge Zone Determination, 64 Fed. Reg. 46,390 (Aug. 25, 1999).

<sup>44</sup> 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).

<sup>45</sup> "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.

The bill finally clarifies that it may not be construed to prohibit anchoring for less than 90 days within Monroe County.

**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.<sup>46</sup> 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.<sup>47</sup> 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.<sup>48</sup> 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.<sup>49</sup> 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.<sup>50</sup> 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.<sup>51</sup>

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.

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<sup>46</sup> 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>.

<sup>47</sup> *Id.* at 1-2.

<sup>48</sup> *Id.* at 2.

<sup>49</sup> *Id.* at 2-3.

<sup>50</sup> *Id.* at 3.

<sup>51</sup> *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/CS by Community Affairs on February 2, 2022:**

The CS clarifies that the bill may not be construed to prohibit anchoring for less than 90 days within Monroe County.

**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.

HB 1065

2022

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:



HB 1065

2022

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 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 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

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

HB 1065

2022

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.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1065 Vessel Anchoring  
**SPONSOR(S):** Mooney  
**TIED BILLS:** IDEN./SIM. BILLS: CS/CS/SB 1432

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee	16 Y, 0 N	Gawin	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	White	Pigott
3) State Affairs Committee			

### SUMMARY ANALYSIS

Current law designates certain densely populated urban areas that have narrow state waterways, residential docking facilities, and significant boating traffic as anchoring limitation areas. In an anchoring limitation area, a person is prohibited from anchoring a vessel at any time during the period between one half-hour after sunset and one half-hour before sunrise. The Division of Law Enforcement of the Fish and Wildlife Conservation Commission (FWC) and its officers, county sheriffs and deputies, and municipal police officers typically enforce anchoring limitation areas. In 2021, the Legislature designated Monroe County as an anchoring limitation area where a vessel on waters of the state can only anchor in the same location for a maximum of 90 days. The establishment of Monroe County as an anchoring limitation area does not take effect until Monroe County approves, permits, and opens new moorings for public use, including 250 moorings within one mile of Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field.

The bill specifies 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 primary residence.

The bill clarifies requirements related to the designation of Monroe County as an anchoring limitation area. Specifically, the bill requires each vessel anchored on state waters within 10 nautical miles of a public mooring field or a designated anchoring area to pull anchor, move from its location using its propulsion system, and re-anchor in a new location no less than once every 90 days.

The bill specifies that these requirements do not apply to vessels moored to approved and permitted moorings. Additionally, until at least 100 new moorings are available for public use within one mile of Key West Bight City Dock, these requirements do not apply to live-aboard vessels on state waters within Monroe County.

The bill requires certain vessels within Monroe County on state waters 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.

The bill may have an insignificant negative fiscal impact on the state that can be absorbed within existing resources.

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

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h1065c.ANR

DATE: 2/14/2022

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### 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, while mooring uses fixtures, known as moorings, permanently affixed to the bottom of the water body.<sup>1</sup> 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.<sup>2</sup>

##### *State Regulation of the Anchoring or Mooring of Vessels*

The Legislature has delegated the responsibility of managing sovereign submerged lands to the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund (Board).<sup>3</sup> Pursuant to this responsibility, the Board is authorized to adopt rules governing anchoring, mooring, or otherwise attaching vessels, floating homes, or any other watercraft to the bottom of sovereign submerged lands.<sup>4</sup> The Board has adopted rules regulating the construction of mooring and docking structures on such lands,<sup>5</sup> but has not exercised its authority to adopt rules regulating anchoring.

Florida law prohibits a person from anchoring a vessel, except in case of emergency, in a manner that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel.<sup>6</sup> Anchoring under bridges or in or adjacent to heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.<sup>7</sup> Interference with navigation is a noncriminal infraction and punishable by a fine of \$50.<sup>8</sup>

With certain exceptions, the owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:

- Within 150 feet of any marina, boat ramp, boatyard, or vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility; or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the local government within which the mooring field is located.<sup>9</sup>

Additionally, the owner or operator of a vessel or floating structure may not anchor or moor within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.<sup>10</sup>

An owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility; within 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field if:

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<sup>1</sup> Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2

(March 2011), available at

[https://www.cityofmarcoisland.com/sites/default/files/fileattachments/administration/page/7491/anchoring\\_away\\_03\\_09\\_11\\_full\\_web\\_3.pdf](https://www.cityofmarcoisland.com/sites/default/files/fileattachments/administration/page/7491/anchoring_away_03_09_11_full_web_3.pdf) (last visited Jan. 30, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> Section 253.03(1), F.S.

<sup>4</sup> Section 253.03(7), F.S.

<sup>5</sup> See ch. 18-21, F.A.C.

<sup>6</sup> Section 327.44(2), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 327.73(j), F.S.

<sup>9</sup> Section 327.4109(1), F.S.

<sup>10</sup> Section 327.4109(3), F.S.

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard the vessel. The owner or operator of the vessel may anchor or moor for five business days or until the vessel is repaired, whichever occurs first.
- Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard the vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk.<sup>11</sup>

A vessel or floating structure may not be anchored, moored, or affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of state waters. This does not apply to a mooring owned by a private individual or entity who owns submerged lands.<sup>12</sup>

#### *Local Regulation of the 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.<sup>13</sup> Mooring fields must be located in areas 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.<sup>14</sup>

Local governments are further authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures<sup>15</sup> or live-aboard vessels<sup>16</sup> within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.<sup>17</sup> However, they are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.<sup>18</sup>

#### *Anchoring Limitation Areas*

Current law designates certain densely populated urban areas that have narrow state waterways, residential docking facilities, and significant recreational boating traffic as anchoring limitation areas.<sup>19</sup> The following areas are designated in statute as anchoring limitation areas:

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County.
- Sunset Lake in Miami-Dade County.
- The sections of Biscayne Bay in Miami-Dade County lying between Rivo Alto Island and Di Lido Island, San Marino Island and San Marco Island, and San Marco Island and Biscayne Island.<sup>20</sup>

In an anchoring limitation area, a person is prohibited from anchoring a vessel at any time during the period between one half-hour after sunset and one half-hour before sunrise.<sup>21</sup> However, a person may anchor in an anchoring limitation area if:

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<sup>11</sup> Section 327.4109(2), F.S.

<sup>12</sup> Section 327.4019(4), F.S.

<sup>13</sup> Section 373.118, F.S.; r. 62-330.420(1), F.A.C.

<sup>14</sup> Rule 62-330.420, F.A.C.

<sup>15</sup> Section 327.02(14), F.S., defines “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.

<sup>16</sup> Section 327.02(22), F.S., defines “live-aboard vessel” as a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats.

<sup>17</sup> Section 327.60(2)(f), F.S.

<sup>18</sup> Section 327.60(3), F.S.

<sup>19</sup> Section 327.4108, F.S.

<sup>20</sup> Section 327.4108(1), F.S.

<sup>21</sup> Section 327.4108(2), F.S.

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the people onboard unless the vessel anchors;
- Imminent or existing weather conditions in the vicinity pose an unreasonable risk of harm to the vessel or the people onboard unless the vessel anchors; or
- The vessel is attending a regatta, race, marine parade, tournament, exhibition,<sup>22</sup> or other special event, including, but not limited to, public music performances, local government waterfront activities, or a fireworks display.<sup>23</sup>

The Division of Law Enforcement of the Fish and Wildlife Conservation Commission (FWC) and its officers, county sheriffs and deputies, and municipal police officers typically enforce anchoring limitation areas.<sup>24</sup> Such law enforcement officers are authorized to remove and impound a vessel that, after being issued a citation for violation of the anchoring limitation area, anchors the vessel in the anchoring limitation area within 12 hours after being issued the citation or refuses to leave the anchoring limitation area after being directed to do so by law enforcement.<sup>25</sup>

Anchoring limitation areas do not apply to vessels owned or operated by a governmental entity for law enforcement, firefighting, military, or rescue purposes; construction or dredging vessels on an active job site; vessels actively engaged in commercial fishing; or vessels engaged in recreational fishing if the individuals on board are actively tending hook and line fishing gear or nets.<sup>26</sup>

#### *Monroe County Anchoring Limitation Area*

In 2021, the Legislature authorized counties, except for Monroe County, to establish anchoring limitation areas adjacent to urban areas that have residential docking facilities and significant recreational boating traffic.<sup>27</sup> Monroe County was designated as an anchoring limitation area within which a vessel on state waters can only anchor in the same location for a maximum of 90 days.<sup>28</sup> However, the establishment of Monroe County as an anchoring limitation area does not take effect until the county approves, permits, and opens new moorings for public use, including at least 250 moorings within one mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field.<sup>29</sup>

The Key West Bight City Dock, pictured below, is located on the Palm Avenue Causeway in Garrison Bight.

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<sup>22</sup> Section 327.48, F.S.

<sup>23</sup> Section 327.4108(3), F.S.

<sup>24</sup> Section 327.70(1), F.S.

<sup>25</sup> Section 327.4108(5)(b), F.S.

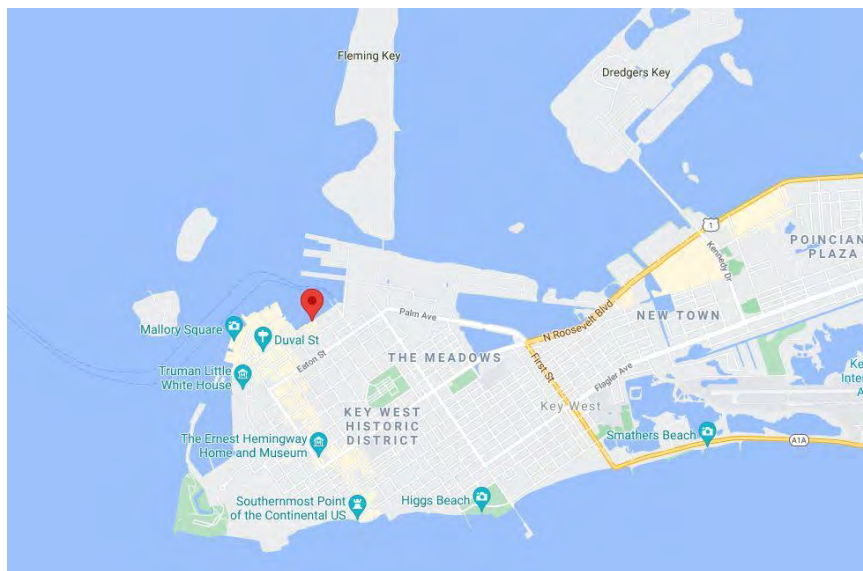
<sup>26</sup> Section 327.4108(4), F.S.

<sup>27</sup> Section 327.4108(2)(a), F.S.

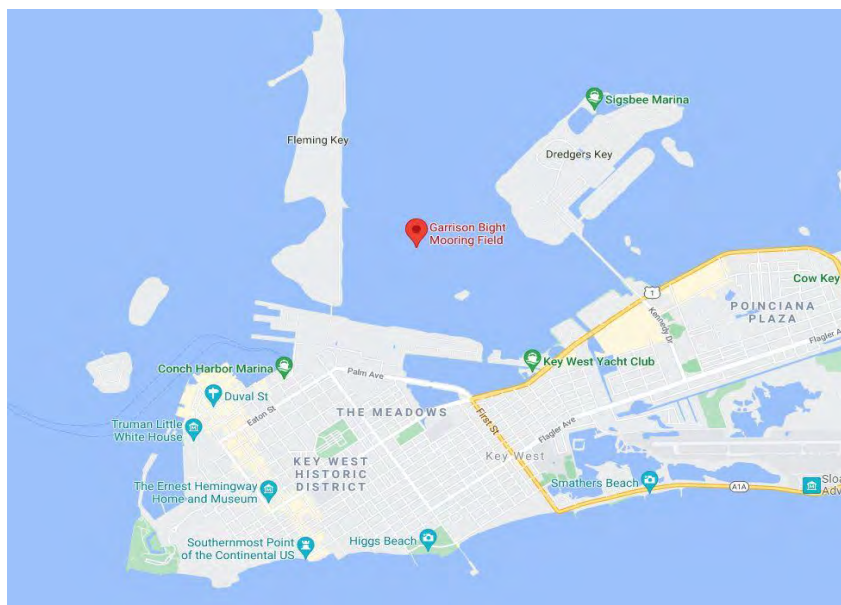
<sup>28</sup> Section 327.4108(3)(a), F.S.

<sup>29</sup> Section 327.4108(3)(c), F.S.





The Key West Garrison Bight Mooring Field, pictured below, is located between Fleming Key and Sigsbee Park.



### Marine Sanitation Devices

Vessels that are equipped with installed toilets and operating on United States navigable waters are required to have U.S. Coast Guard certified marine sanitation devices on board.<sup>30</sup> A marine sanitation device is equipment, other than a toilet, for installation on board a vessel that is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage.<sup>31</sup> The U.S. Coast Guard categorizes marine sanitation devices into Type I, Type II, and Type III devices. A Type I device is a flow-through treatment device that commonly uses maceration and disinfection for the treatment of sewage; Type II devices are flow-through treatment devices that may employ biological treatment and disinfection; and Type III devices are typically a holding tank where sewage is stored until it can be discharged shore-side or beyond three miles from shore.<sup>32</sup>

<sup>30</sup> 33 U.S.C. 1322.

<sup>31</sup> Section 327.02(27), F.S.

<sup>32</sup> U.S. Environmental Protection Agency (EPA), *Marine Sanitation Devices (MSDs)*, <https://www.epa.gov/vessels-marinas-and-ports/marine-sanitation-devices-msds> (last visited Jan. 30, 2022).

Raw sewage cannot be discharged from any vessel or any floating structure in Florida waters.<sup>33</sup> All waste from Type III marine sanitation devices must be disposed of in an approved sewage pump-out facility.<sup>34</sup> A violation of the marine sanitation laws is a noncriminal infraction.<sup>35</sup>

### No-Discharge Zones

A no-discharge zone is a designated body of water where it is unlawful to discharge treated or untreated boat sewage.<sup>36</sup> Within the boundaries of a no-discharge zone, vessel operators are required to retain their sewage discharges onboard for discharge beyond three miles from the Atlantic shore and beyond nine miles from the Gulf shore or onshore at a pump-out facility. Currently, Florida has three designated no-discharge zones within Destin Harbor,<sup>37</sup> the city of Key West waters,<sup>38</sup> and the state waters within the Florida Keys National Marine Sanctuary.<sup>39</sup>

### **Effect of the Bill**

The bill specifies that, notwithstanding any other law, 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 may not exceed 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 the tenancy of a vessel because an individual has established it as his or her domicile or because the vessel is an individual's primary residence.

The bill revises the requirements that apply to vessels in the Monroe County anchoring limitation area. Specifically, the bill requires each vessel anchored within Monroe County on state waters within 10 nautical miles of a public mooring field or a designated anchoring area to pull anchor, move from its location using its propulsion system, and re-anchor in a new location no less than once every 90 days. The bill requires the new location to 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.

The bill specifies that these requirements do not apply to vessels moored to approved and permitted moorings.

Additionally, the bill revises the circumstances under which the requirements of the Monroe County anchoring limitation area take effect. Specifically, the bill provides that such requirements do not apply to live-aboard vessels until at least 100 new moorings are available for public use within one mile of Key West Bight City Dock. The bill removes the requirement that at least 50 moorings must be established within the Key West Garrison Bight Mooring Field.

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<sup>33</sup> Section 327.53(4)(a), F.S.

<sup>34</sup> Section 327.53(4)(b), F.S.

<sup>35</sup> Section 327.53(6)(a), F.S.

<sup>36</sup> EPA, *Vessel Sewage Discharges: No-Discharge Zones*, <https://www.epa.gov/vessels-marinas-and-ports/vessel-sewage-no-discharge-zones> (last visited Jan. 30, 2022).

<sup>37</sup> Marine Sanitation Device Standard for Destin Harbor, 53 Fed. Reg. 1,678 (Jan. 21, 1988) available at [https://www.epa.gov/sites/default/files/2015-09/documents/53\\_fr\\_1678.pdf](https://www.epa.gov/sites/default/files/2015-09/documents/53_fr_1678.pdf) (last visited Jan. 30, 2022).

<sup>38</sup> City of Key West No Discharge Zone Determination, 64 Fed. Reg. 46,390 (Aug. 25, 1999) available at <https://www.govinfo.gov/content/pkg/FR-1999-08-25/pdf/99-22044.pdf#page=1> (last visited Jan. 30, 2022).

<sup>39</sup> 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) available at <https://www.govinfo.gov/content/pkg/FR-2002-05-21/pdf/02-12283.pdf#page=1> (last visited Jan. 30, 2022); The Florida Keys National Marine Sanctuary protects the 3,800 square miles of waters surrounding the Florida Keys from Miami to the Tortugas. National Oceanic & Atmospheric Administration, *About Florida Keys National Marine Sanctuary*, <https://floridakeys.noaa.gov/about/welcome.html?s=about> (last visited Jan. 30, 2022).

The bill requires FWC, in consultation with Monroe County and the Florida Keys National Marine Sanctuary, to 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 into and out of 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, certain areas where anchoring is prohibited by state law, or any other lawfully established areas that prohibit anchoring.

The bill provides that certain vessels within Monroe County on state waters that 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 device. Such pump-out must occur every 30 days, and the record must be maintained for one year after the date of the pump-out. These requirements apply to 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; and
- A vessel moored in a public mooring field.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 253.0346, F.S., related to the lease of sovereignty submerged lands for marinas, boatyards, and marine retailers.

Section 2. Amends s. 327.4108, F.S., related to anchoring limitation areas.

Section 3. Provides an effective date of July 1, 2022.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

The bill may have an insignificant negative fiscal impact on FWC related to the costs associated with the rulemaking requirements of the bill. These costs can be absorbed within existing resources.

#### 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 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:

General and Special Laws

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.<sup>40</sup> 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.<sup>41</sup> 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.<sup>42</sup> 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.<sup>43</sup> 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.<sup>44</sup> 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.<sup>45</sup>

The bill amends statutes relating to vessel anchoring and mooring and documentation of marine sanitation device pump-out in Monroe County.

B. RULE-MAKING AUTHORITY:

The bill requires FWC, in consultation with Monroe County and the Florida Keys National Marine Sanctuary, to establish by rule designated anchoring areas throughout the County.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

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<sup>40</sup> *State ex rel. Landis v. Harris*, 163 So. 237, 240, 120 Fla. 555, 562-563 (Fla. 1934).

<sup>41</sup> *Fla. Dep't of Bus. & Prof'l Regulation v. Gulfstream Park Racing Ass'n, Inc.*, 967 So. 2d 802, 808-09 (Fla. 2007).

<sup>42</sup> *City of Miami Beach v. Frankel*, 363 So. 2d 555 (Fla. 1978).

<sup>43</sup> *License Acquisitions, LLC v. Debary Real Estate Holdings, LLC*, 155 So. 3d 1137, 1142-1143 (Fla. 2015).

<sup>44</sup> Art. III, s. 10, Fla. Const.

<sup>45</sup> *License Acquisitions, LLC*, 155 So. 3d at 1142-1143.

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~~

12-01042-22

20221546\_\_

~~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

12-01042-22

20221546\_\_

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.

HB 1225

2022

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



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

HB 1225

2022

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.

HB 1265

2022

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\_\_

1                   A bill to be entitled  
2       An act relating to the Office of the Blue Economy;  
3       amending s. 20.60, F.S.; establishing the office  
4       within the Department of Economic Opportunity;  
5       creating s. 288.93, F.S.; defining the term "blue  
6       economy"; providing duties of the office; authorizing  
7       the department to adopt rules; amending s. 403.928,  
8       F.S.; conforming provisions to changes made by the  
9       act; creating s. 403.9303, F.S.; requiring the Office  
10      of Economic and Demographic Research to conduct a  
11      biennial evaluation of the blue economy for inclusion  
12      in a certain assessment; providing requirements for  
13      the evaluation; providing an effective date.

14  
15   Be It Enacted by the Legislature of the State of Florida:

16  
17       Section 1. Paragraph (a) of subsection (3) of section  
18   20.60, Florida Statutes, is amended to read:

19       20.60 Department of Economic Opportunity; creation; powers  
20   and duties.—

21       (3)(a) The following divisions and offices of the  
22   Department of Economic Opportunity are established:

- 23       1. The Division of Strategic Business Development.  
24       2. The Division of Community Development.  
25       3. The Division of Workforce Services.  
26       4. The Division of Finance and Administration.  
27       5. The Division of Information Technology.  
28       6. The Office of the Secretary.  
29       7. The Office of Economic Accountability and Transparency,

3-00939A-22

20221454\_\_

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

3-00939A-22

20221454\_\_

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).

3-00939A-22

20221454\_\_

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

3-00939A-22

20221454\_\_

state's blue economy for inclusion in its annual assessment  
conducted pursuant to s. 403.928.

(2) The evaluation must include the following:

(a) The historical and current contributions to the state's  
economy from maritime industries, including, but not limited to:

1. Shipyards, marinas, marine terminals, piers, fishing,  
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.



HB 1081

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.

HB 1081

2022

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,

HB 1081

2022

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

<b>HB 0047</b>	<b>Fraudulent Proof of Vaccination</b> by Grieco
Fraudulent Proof of Vaccination: Prohibits specified actions involving fraudulent proof of vaccination. Effective Date: October 1, 2022	
<b>Actions</b>	
02/04/2022	Bill to be Discussed During the Office of EDR's Criminal Justice Impact Conference, 02/07/22, 2:00 pm, 117 K (No Votes Will Be Taken)
<b>HB 0075</b>	<b>Limiting COVID-19 Restrictions</b> 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	
<b>Actions</b>	
09/17/2021	HOUSE Now in Pandemics & Public Emergencies Committee
<b>SB 0100</b>	<b>Joint Resolution of Apportionment</b> by Rodrigues (R)
Joint Resolution of Apportionment; Providing for the apportionment of the House of Representatives and the Senate (plans H000H8013 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.	
<b>Actions</b>	
02/03/2022	SENATE Enrolled Text (ER) Filed
<b>HB 0117</b>	<b>Communicable and Infectious Diseases</b> 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	
<b>Actions</b>	
09/29/2021	HOUSE Now in Government Operations Subcommittee
<b>HB 0119</b>	<b>Appeals by Property Appraisers</b> 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	
<b>Actions</b>	
10/19/2021	HOUSE Withdrawn prior to introduction
<b>SB 0152</b>	<b>Supermajority Vote for Legislative Preemption</b> 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**

01/20/2022 SENATE Now in Community Affairs

#### **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 or cause to be prepared a business impact estimate before the enactment of a proposed ordinance; requiring a county to suspend enforcement of an ordinance that is the subject of a certain legal action if certain conditions are met; authorizing a prevailing county to enforce the



ordinance after a specified period, except under certain circumstances; requiring a governing body of a municipality to prepare or cause to be prepared a business impact estimate before the enactment of a proposed ordinance, etc. Effective Date: 10/1/2022

#### **Actions**

01/27/2022 HOUSE In Messages

#### **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**

02/04/2022 Bill to be Discussed During the Office of EDR's Criminal Justice Impact Conference, 02/07/22, 2:00 pm, 117 K (No Votes Will Be Taken)

#### **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**

02/14/2022 HOUSE Now in State Affairs Committee

#### **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

<b>HB 0383</b>	<b>Criminal Conflict and Civil Regional Counsels</b> 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	
<b>Actions</b>	
02/11/2022 HOUSE Placed on Calendar, on 2nd reading	
<b>HB 0385</b>	<b>Pub. Rec./Criminal Conflict and Civil Regional Counsel Offices</b> 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	
<b>Actions</b>	
02/08/2022 HOUSE Placed on Calendar, on 2nd reading	
<b>HB 0393</b>	<b>Public Bathing Places</b> 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	
<b>Actions</b>	
11/05/2021 HOUSE Now in Professions & Public Health Subcommittee	
<b>HB 0399</b>	<b>Motor Vehicle and Vessel Law Enforcement</b> by Rodriguez (Ant)
Motor Vehicle and Vessel Law Enforcement: Prohibits persons from driving motor vehicle in street takeover, stunt driving, race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration on highway, roadway, or parking lot; 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	
<b>Actions</b>	
02/15/2022 HOUSE Committee Substitute Text (C2) Filed	
<b>SB 0408</b>	<b>Acceptance of Cash Payments by Businesses</b> 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	
<b>Actions</b>	
10/13/2021 SENATE Referred to Commerce and Tourism; Banking and Insurance; Rules	
<b>HB 0421</b>	<b>Long-term Cleanup of Water Bodies</b> by Truenow
Long-term Cleanup of Water Bodies: Directs DEP to procure specified technology for purpose of long-term cleanup of water bodies. Effective Date: July 1, 2022	
<b>Actions</b>	
02/14/2022 HOUSE Now in State Affairs Committee	
<b>SB 0434</b>	<b>Florida Tourism Marketing</b> 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**

02/03/2022 HOUSE In Messages

#### **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**

02/14/2022 HOUSE Now in Environment, Agriculture & Flooding 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**

01/24/2022 HOUSE Placed on Calendar, on 2nd reading

#### **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. Effective Date: July 1, 2022

#### **Actions**

**SB 0494 Fish and Wildlife Conservation Commission** by Hutson

Fish and Wildlife Conservation Commission; 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; revising the notices a person must be given for failure to submit to certain tests for alcohol, chemical substances, or controlled substances; authorizing individuals, when participating in certain athletic team practices or competitions, to operate a human-powered vessel within the marked channel of the Florida Intracoastal Waterway under certain circumstances; revising the vessel conditions that an officer of the commission or a law enforcement agency may use to determine that a vessel is at risk of becoming derelict, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022

**Actions**

02/10/2022 HOUSE In Messages

**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 EDR, DEP, Governor, & Legislature; provides report requirements. Effective Date: July 1, 2022

**Actions**

02/02/2022 HOUSE Placed on Calendar, on 2nd reading

**HB 0529 Yacht and Ship Brokers Located Out of State** by LaMarca

Yacht and Ship Brokers Located Out of State: Exempts person who regularly conducts business as yacht or ship broker or salesperson in another state from licensure for specified transactions; provides exception. Effective Date: upon becoming a law

**Actions**

02/15/2022 HOUSE Now in Commerce Committee

**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**

01/25/2022 SENATE Now in Appropriations

**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

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**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 partnership with Institute of Food & Agricultural Sciences at University of Florida & Water School at Florida Gulf Coast University, to study nutrient removal technologies & mechanical aquatic plant management techniques within Lake Okeechobee watershed; directs UF/IFAS to submit report to FWCC; directs FWCC to submit report to Governor & Legislature. Effective Date: July 1, 2022

**Actions**

02/15/2022 HOUSE Committee Substitute Text (C2) Filed

**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**

02/14/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

**SB 0604 Safe Waterways Act** by Berman

Safe Waterways Act; Requiring, rather than authorizing, the Department of Health to adopt and enforce certain rules; 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 department to adopt by rule a certain health advisory sign; providing that municipalities and counties are responsible for maintaining the health advisory signs for affected beach waters and public bathing places that they own, etc. Effective Date: 7/1/2022

**Actions**

02/11/2022 SENATE Now in Community Affairs

**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**

02/09/2022 SENATE Temporarily Postponed by Appropriations

#### **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 Business Protection Act by Hutson**

Local Business Protection Act; Citing this act as the "Local Business Protection Act"; 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; limiting the amount of business damages that may be recovered; specifying ordinances and charter provisions that do not result in liability for business damages; requiring businesses and counties or municipalities to follow certain presuit procedures before businesses file an action for business damages, etc. Effective Date: Upon becoming a law

#### **Actions**

01/27/2022 HOUSE In Messages

#### **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



<b>HB 0683</b>	<b>Recreational Licenses and Permits for Military Servicemembers and Veterans</b> 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 <b>Actions</b>
	01/26/2022 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 01/28/22, 10:30 am, 117 K (No Votes Will Be Taken)
<b>SB 0688</b>	<b>Employment Practices for Family and Medical Leave</b> 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 <b>Actions</b>
	11/16/2021 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
<b>SB 0690</b>	<b>Resilience-related Advisory Committees</b> 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 <b>Actions</b>
	01/31/2022 SENATE Now in Rules
<b>HB 0691</b>	<b>Resilience-related Advisory Committees</b> 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 <b>Actions</b>
	12/13/2021 HOUSE Now in Government Operations Subcommittee
<b>HB 0701</b>	<b>Boating and Vessel Safety</b> 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 & educational materials; requires instructors of water sports & activities to use engine cutoff switches & wear operative links to switches under certain conditions. Effective Date: October 1, 2022 <b>Actions</b>
	02/15/2022 HOUSE On Committee agenda - Commerce Committee, 02/17/22, 9:00 am, 212 K
<b>HB 0711</b>	<b>Endangered and Threatened Species</b> 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**

01/25/2022 HOUSE Now in Agriculture & Natural Resources Appropriations 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**

01/20/2022 SENATE Now in Health Policy

#### **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**

02/01/2022 HOUSE Placed on Calendar, on 2nd reading

#### **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**

11/16/2021 SENATE Referred to Regulated Industries; Commerce and Tourism; Rules

#### **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**

01/27/2022 SENATE Now in Appropriations

#### **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**

02/10/2022 HOUSE In Messages

#### **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**

02/10/2022 HOUSE Now in Judiciary Committee

#### **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**

02/03/2022 HOUSE Now in Civil Justice & Property Rights Subcommittee

#### **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 governing boards to consider certain criteria when including wetlands on the list and to notify owners of property contemplated to be included on the list; requiring owners who wish to have their property removed from the list to submit a certified letter requesting removal; requiring a governing board to approve such removal if the request meets those requirements, etc. Effective Date: 7/1/2022

#### **Actions**

02/11/2022 SENATE Placed on Calendar, on 2nd reading

#### **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: Removes limitation on contributions made to political committees that are in opposition to certain constitutional amendments; provides applicability of limitation on certain political contributions; provides that foreign national may not make or offer to make certain contributions or expenditures. Effective Date: July 1, 2022

#### **Actions**

02/07/2022 HOUSE Now in State Affairs 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**

02/10/2022 SENATE Temporarily Postponed by Rules

#### **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. Effective Date: Upon becoming a law

#### **Actions**

02/03/2022 SENATE Now in Appropriations

#### **HB 0965 Environmental Management by Truenow**

Environmental Management: Provides for water quality enhancement areas & permits, enhancement service areas, & enhancement credits; directs DEP & water management districts to authorize sale & use of enhancement credits for specified purposes; directs DEP to maintain specified ledgers; revises requirements for developers & homebuilders to qualify for graywater technology incentives; authorizes positions & provides appropriation.

#### **Actions**

02/15/2022 HOUSE Committee Substitute Text (C2) Filed

#### **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; revising the timeframe required for sending notices of lien; 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**

02/03/2022 SENATE Now in Rules

<b>HB 1019</b>	<b>Saltwater Intrusion Vulnerability Assessments</b> 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	
<b>Actions</b>	
01/07/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee	
<b>HB 1065</b>	<b>Vessel Anchoring</b> 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	
<b>Actions</b>	
02/14/2022 HOUSE Now in State Affairs Committee	
<b>HB 1077</b>	<b>Public Financing of Potentially At-risk Structures and Infrastructure</b> 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	
<b>Actions</b>	
02/14/2022 HOUSE Now in State Affairs Committee	
<b>HB 1081</b>	<b>Office of the Blue Economy</b> 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	
<b>Actions</b>	
01/10/2022 HOUSE Now in Tourism, Infrastructure & Energy Subcommittee	
<b>HB 1113</b>	<b>Employer Retaliation for Covid-19 Quarantine</b> 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	
<b>Actions</b>	
01/10/2022 HOUSE Now in Regulatory Reform Subcommittee	
<b>SB 1128</b>	<b>Aquatic Plant Management</b> 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	
<b>Actions</b>	
SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee	



**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**

02/08/2022 HOUSE Now in State Affairs Committee

**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**

02/10/2022 HOUSE Now in Commerce Committee

**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: January 1, 2023

**Actions**

02/04/2022 HOUSE Now in Commerce Committee

**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; Authorizing the Department of Environmental Protection to provide grants for saltwater intrusion vulnerability assessments; requiring the department to update the comprehensive statewide flood vulnerability and sea level rise data set and make certain information received from the saltwater intrusion vulnerability assessments available on its website; requiring the department to provide cost-share funding up to a specified amount for awarded grants, etc. Effective Date: Upon becoming a law

## Actions

02/02/2022 SENATE Now in Governmental Oversight and Accountability

### **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

01/26/2022 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 01/28/22, 10:30 am, 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

SENATE Referred to Regulated Industries; Governmental Oversight and Accountability;



**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**

02/15/2022 SENATE Favorable by Rules; 17 Yeas, 0 Nays

**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**

02/03/2022 SENATE Now in 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**

01/14/2022 HOUSE Now in Regulatory Reform Subcommittee

**HB 1411 Floating Solar Facilities by Avila**

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; authorizes county or municipality to specify buffer & landscaping requirements; requires Office of Energy within

DACS to submit specified recommendations to Legislature regarding floating solar facilities for certain entities. Effective Date: July 1, 2022

#### **Actions**

02/15/2022 HOUSE On Committee agenda - Commerce Committee, 02/17/22, 9:00 am, 212 K

#### **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 Environmental Management by Burgess**

Environmental Management; 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; authorizing the department to enter into agreements and contracts with public and private entities for donations, funds, and payments to expedite the evaluation of environmental resource and dredge and fill permits, etc. APPROPRIATION: \$2,040,000 Effective Date: Upon becoming a law

#### **Actions**

02/11/2022 SENATE On Committee agenda - Appropriations Subcommittee on Agriculture, Environment, and General Government, 02/16/22, 1:00 pm, 110 S

#### **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**

02/15/2022 SENATE Favorable by Rules; 17 Yeas, 0 Nays

#### **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**

01/26/2022 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

<b>SB 1454</b>	<b>Office of the Blue Economy</b> 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
	<b>Actions</b>
	01/12/2022 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
<b>SB 1546</b>	<b>Vessel Safety Flags</b> 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
	<b>Actions</b>
	01/12/2022 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules
<b>SB 1570</b>	<b>Economic Assistance to New Businesses</b> 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
	<b>Actions</b>
	01/12/2022 SENATE Referred to Commerce and Tourism; Finance and Tax; Appropriations
<b>SB 1584</b>	<b>Outstanding Florida Springs</b> by Gruters
	Outstanding Florida Springs; Designating additional springs as Outstanding Florida Springs, etc. Effective Date: Upon becoming a law
	<b>Actions</b>
	01/12/2022 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules
<b>HB 1593</b>	<b>Ocean Highway and Port Authority, Nassau County</b> 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
	<b>Actions</b>
	02/02/2022 HOUSE Temporarily Postponed by Local Administration & Veterans Affairs Subcommittee
<b>SB 1650</b>	<b>Boating and Vessel Safety</b> 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
	<b>Actions</b>

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 Resilience within the Executive Office of the Governor; providing for the appointment of a Chief Resilience Officer; requiring the Department of Transportation to develop a resilience action plan for the State Highway System; revising the projects the Department of Environmental Protection may fund within the Resilient Florida Grant Program; extending the dates by which the department must complete a comprehensive statewide flood vulnerability and sea-level rise data set and assessment; requiring the Florida Flood Hub for Applied Research and Innovation to provide tidal and storm surge flooding data to counties and municipalities for vulnerability assessments, etc. Effective Date: 7/1/2022

**Actions**

02/02/2022 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

**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

**SB 2508 Environmental Resources by Appropriations**

Environmental Resources; Providing that certain land acquisitions are not required to meet specified valuation procedures; providing requirements for budget amendments requesting the release of state funds for specified water project components; requiring the South Florida Water Management District to make a specified certification to the Legislature regarding its recommendations to the United States Army Corps of Engineers for new or modified Lake Okeechobee provisions, etc. Effective Date: Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2022

## **Actions**

02/10/2022 SENATE Placed on Calendar, on 2nd reading

### **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**

01/25/2022 HOUSE Now in Appropriations Committee

### **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 5001 General Appropriations Act by Appropriations Committee**

General Appropriations Act: Provides moneys for annual period beginning July 1, 2022, & ending June 30, 2023, & supplemental appropriations for period ending June 30, 2022, to pay salaries & other expenses, capital outlay—buildings & other improvements, & for other specified purposes of various agencies of state government. Effective Date: July 1, 2022

## **Actions**

02/15/2022 HOUSE Read Second Time; Placed on Third Reading, 02/16/22

### **HB 5015 Evaluation of Significant State Risks by Appropriations Committee**

Evaluation of Significant State Risks: Creates Legislative Office of Risk Assessment; provides office shall be headed by chief risk officer; requires office to develop & update State Risk Register; provides specifications for State Risk Register; requires office to biennially submit register & certain list to LBC; requires office to submit annual progress report to Legislature; establishes Risk Estimating Conference; requires conference to estimate economic damage associated with risks identified in register. Effective Date: July 1, 2022

## **Actions**

02/15/2022 HOUSE Read Second Time; Placed on Third Reading, 02/16/22

### **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

**HB 7053**

**Statewide Flooding and Sea Level Rise Resilience** by Environment, Agriculture & Flooding Subcommittee

Statewide Flooding and Sea Level Rise Resilience: Establishes Statewide Office of Resilience within EOG; provides for appointment of Chief Resilience Officer; requires DOT to develop resilience action plan for State Highway System & submit plan & reports to Governor & Legislature; revises projects DEP may fund within Resilient Florida Grant Program; revises vulnerability assessment requirements for noncoastal communities; extends dates by which DEP must, in coordination with Florida Flood Hub for Applied Research & Innovation, complete comprehensive statewide flood vulnerability & sea level rise data set & assessment; requires certain projects to be ranked & included in Statewide Flood & Sea Level Rise Resilience Plan; revises entities authorized to submit proposed projects; revises annual funding amount for plan; requires Florida Flood Hub for Applied Research & Innovation to provide tidal & storm surge flooding data to certain entities; revises requirements for copies of evaluation certificates that must be submitted to DEM. Effective Date: July 1, 2022

**Actions**

02/09/2022 HOUSE Now in State Affairs Committee

**EAF1**

**Statewide Flooding and Sea Level Rise Resilience** by Environment, Agriculture & Flooding Subcommittee

PCB EAF 22-01 – Statewide Flooding and Sea Level Rise Resilience

**Actions**

02/03/2022 HOUSE Committee Bill Filed as HB 7053