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

(1)(a)1.a. Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by so operating such vehicle, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to ~~such~~ a test or tests required under this chapter or chapter 327, and shall also be told that if he or she refuses to submit to a lawful test of his or her breath and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 and s. 775.083, in addition to any other penalties provided in law. The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

b. Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by so operating such vehicle, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of chemical substances or controlled substances. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of chemical substances or controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such test in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of a urine test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her urine will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for the first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s.

327.35215 as a result of a refusal to submit to ~~such~~ a test or tests required under this chapter or chapter 327, and shall also be told that if he or she refuses to submit to a lawful test of his or her urine and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 and s. 775.083, in addition to any other penalties provided in 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) Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided in this section if there is reasonable cause to believe the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical facility and the administration of a breath or urine test is impractical or impossible. As used in this paragraph, the term "other medical facility" includes an ambulance or other medical emergency vehicle. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition is deemed not to have withdrawn his or her consent to such test. A blood test may be administered whether or not the person is told that his or her failure to submit to such a blood test will result in the suspension of the person's privilege to operate a motor vehicle upon the public highways of this state and that a refusal to submit to a lawful test of his or her blood, if his or her driving privilege has been previously suspended for refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor. Any person who is capable of refusal shall be told that his or her failure to submit to such a blood test will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of the person has been suspended previously or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to ~~such~~ a test or tests required under this chapter or chapter 327.~~, and that a refusal to submit to a lawful test of his or her blood, if his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor.~~ The refusal to submit to a blood test upon the request of a law enforcement officer is admissible in evidence in any criminal proceeding.

316.1939 Refusal to submit to testing; penalties.—

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

(a) Who the arresting law enforcement officer had probable cause to believe was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances;
(b) Who was placed under lawful arrest for a violation of s. 316.193 unless such test was requested pursuant to s. 316.1932(1)(c);
(c) Who was informed that, if he or she refused to submit to such test, his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months;
(d) Who was informed that a refusal to submit to a lawful test of his or her breath or~~,~~ urine~~, or blood,~~ if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, as required under this chapter or chapter 327, is a misdemeanor of the first degree, punishable as provided in s. 775.082 and s. 775.083, in addition to any other penalties provided in law; and
(e) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.
(2) The disposition of any administrative proceeding that relates to the suspension of a person's driving privilege does not affect a criminal action under this section.
(3) The disposition of a criminal action under this section does not affect any administrative proceeding that relates to the suspension of a person's driving privilege. The department's records showing that a person's license has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood shall be admissible and shall create a rebuttable presumption of such suspension.

327.02 Definitions.—As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:
(6) "Commercial fishing vessel" means a vessel primarily engaged in the taking or landing of saltwater fish or saltwater products or freshwater fish or freshwater products, or a vessel licensed pursuant to s. 379.361 from which commercial quantities of saltwater products are harvested, from within and without the waters of the ~~this~~ state for sale to the consumer or to a retail or wholesale dealer.
(7) "Commercial parasailing" means providing or offering to provide, for consideration, any activity involving the towing of a person by a motorboat if:
(a) One or more persons are tethered to the towing vessel;
(b) The person or persons ascend above the water; and
(c) The person or persons remain suspended under a canopy, chute, or parasail above the water while the vessel is underway.

The term does not include ultralight glider towing conducted under rules of the Federal Aviation Administration governing ultralight vehicles as defined in 14 C.F.R. part 103.
(8) "Commercial vessel" means a vessel used as a place of business or a professional or other commercial enterprise.

(9) “Commission” means the Fish and Wildlife Conservation Commission.
(10) “Dealer” means a person authorized by the Department of Revenue to buy, sell, resell, or otherwise distribute vessels. Such person must have a valid sales tax certificate of registration issued by the Department of Revenue and a valid commercial or occupational license required by any county, municipality, or political subdivision of the state in which the person operates.
(11) “Division” means the Division of Law Enforcement of the Fish and Wildlife Conservation Commission.
(12) “Documented vessel” means a vessel for which a valid certificate of documentation is outstanding pursuant to 46 C.F.R. part 67.
(13) “Effective means of propulsion for safe navigation” means a vessel, other than a barge, that is equipped with:
(a) A functioning motor, controls, and steering system; or
(b) Rigging and sails that are present and in good working order, and a functioning steering system.
(14) “Floating structure” means 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, but is not limited to, 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. Floating structures are expressly excluded from the definition of the term “vessel” provided in this section. Incidental movement upon water or resting partially or entirely on the bottom does not, in and of itself, preclude an entity from classification as a floating structure.
(15) “Florida Intracoastal Waterway” means 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.
(16) “Homemade vessel” means a vessel built after October 31, 1972, for which a federal hull identification number is not required to be assigned by the manufacturer pursuant to federal law, or a vessel constructed or assembled before November 1, 1972, by an entity other than a licensed manufacturer for its own use or the use of a specific person. A vessel assembled from a manufacturer’s kit or constructed from an unfinished manufactured hull is considered to be a homemade vessel if such a vessel is not required to have a hull identification number assigned by the United States Coast Guard. A rebuilt or reconstructed vessel may not be construed to be a homemade vessel.
(17) “Houseboat” means a vessel that is used primarily as a residence for at least 21 days during any 30-day period in a county of this state if such residential use of the vessel is to the preclusion of its use as a means of transportation.

(18) “Human-powered vessel” means a vessel powered only by its occupants.
(19) ~~(18)~~ “Kiteboarding” or “kitesurfing” means an activity in which a kiteboard or surfboard is tethered to a kite so as to harness the power of the wind and propel the board across a body of water. For purposes of this subsection, the term “kite” has the same meaning as used in 14 C.F.R. part 101.
(20) ~~(19)~~ “Length” means the measurement from end to end over the deck parallel to the centerline, excluding sheer.
(21) ~~(20)~~ “Lien” means a security interest that is reserved or created by a written agreement recorded with the Department of Highway Safety and Motor Vehicles pursuant to s. 328.15 and that secures payment or performance of an obligation and is generally valid against third parties.
(22) ~~(21)~~ “Lienholder” means a person holding a security interest in a vessel, which interest is recorded with the Department of Highway Safety and Motor Vehicles pursuant to s. 328.15.
(23) ~~(22)~~ “Live-aboard vessel” means:
(a) A vessel used solely as a residence and not for navigation;
(b) A vessel for which a declaration of domicile has been filed pursuant to s. 222.17; or
(c) A vessel used as a residence that does not have an effective means of propulsion for safe navigation.

A commercial fishing vessel is expressly excluded from the term “live-aboard vessel.”
(24) ~~(23)~~ “Livery vessel” means a vessel leased, rented, or chartered to another for consideration.
(25) ~~(24)~~ “Manufactured vessel” means a vessel built after October 31, 1972, for which a federal hull identification number is required pursuant to federal law, or a vessel constructed or assembled before November 1, 1972, by a duly licensed manufacturer.
(26) ~~(25)~~ “Marina” means a licensed commercial facility that provides secured public moorings or dry storage for vessels on a leased basis. A commercial establishment authorized by a licensed vessel manufacturer as a dealership is considered a marina for nonjudicial sale purposes.
(27) ~~(26)~~ “Marine sanitation device” means 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. Marine sanitation device Types I, II, and III shall be defined as provided in 33 C.F.R. part 159.
(28) ~~(27)~~ “Marker” means a channel mark or other aid to navigation, an information or regulatory mark, an isolated danger mark, a safe water mark, a special mark, an inland waters obstruction mark, or mooring buoy in, on, or over the waters of the state or the shores thereof, and includes, but is not limited to, a sign, beacon, buoy, or light.
(29) ~~(28)~~ “Moored ballooning” means the operation of a moored balloon pursuant to 14 C.F.R. part 101.
(30) ~~(29)~~ “Motorboat” means a vessel equipped with machinery for propulsion, irrespective of whether the propulsion machinery is in actual operation.
(31) ~~(30)~~ “Muffler” means an automotive-style sound-suppression device or system designed to effectively abate the sound of exhaust gases emitted from an internal combustion engine and prevent excessive sound when installed on such an engine.
(32) ~~(31)~~ “Navigation rules” means, for vessels on:

(a) Waters outside established navigational lines of demarcation as specified in 33 C.F.R. part 80, the International Navigational Rules Act of 1977, 33 U.S.C. s. 1602, as amended, including the appendix and annexes thereto, through December 31, 2020 ~~October 1, 2012~~.
(b) All waters not outside of such established lines of demarcation, the Inland Navigational Rules Act of 1980, 33 C.F.R. parts 83-90, as amended, through December 31, 2020 ~~October 1, 2012~~.
(33) ~~(32)~~ "Nonresident" means a citizen of the United States who has not established residence in this state and has not continuously resided in this state for 1 year and in one county for the 6 months immediately preceding the initiation of a vessel titling or registration action.
(34) ~~(33)~~ "Operate" means to be in charge of, in command of, or in actual physical control of a vessel upon the waters of the ~~this~~ state, to exercise control over or to have responsibility for a vessel's navigation or safety while the vessel is underway upon the waters of the ~~this~~ state, or to control or steer a vessel being towed by another vessel upon the waters of the state.
(35) ~~(34)~~ "Owner" means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person which is reserved or created by agreement and securing payment of performance of an obligation. The term does not include a lessee under a lease not intended as security.
(36) ~~(35)~~ "Person" means an individual, partnership, firm, corporation, association, or other entity.
(37) ~~(36)~~ "Personal watercraft" means 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, rather than in the conventional manner of sitting or standing inside the vessel.
(38) ~~(37)~~ "Portable toilet" means a device consisting of a lid, seat, containment vessel, and support structure which is specifically designed to receive, retain, and discharge human waste and which is capable of being removed from a vessel by hand.
(39) ~~(38)~~ "Prohibited activity" means activity that will impede or disturb navigation or creates a safety hazard on waterways of this state.
(40) ~~(39)~~ "Racing shell," "rowing scull," or "racing kayak" means a manually propelled vessel that is recognized by national or international racing associations for use in competitive racing and in which all occupants, with the exception of a coxswain, if one is provided, row, scull, or paddle and that is not designed to carry and does not carry any equipment not solely for competitive racing.
(41) ~~(40)~~ "Recreational vessel" means a vessel:
(a) Manufactured and used primarily for noncommercial purposes; or
(b) Leased, rented, or chartered to a person for his or her noncommercial use.
(42) ~~(41)~~ "Registration" means a state operating license on a vessel which is issued with an identifying number, an annual certificate of registration, and a decal designating the year for which a registration fee is paid.
(43) ~~(42)~~ "Resident" means a citizen of the United States who has established residence in this state and has continuously resided in this state for 1 year and in one county for the 6 months immediately preceding the initiation of a vessel titling or registration action.

(44) ~~(43)~~ "Sailboat" means a vessel whose sole source of propulsion is the wind.
(45) ~~(44)~~ "Sustained wind speed" means a wind speed determined by averaging the observed wind speed rounded up to the nearest mile per hour over a 2-minute period.
(46) ~~(45)~~ "Unclaimed vessel" means an undocumented vessel, including its machinery, rigging, and accessories, which is in the physical possession of a marina, garage, or repair shop for repairs, improvements, or other work with the knowledge of the vessel owner and for which the costs of such services have been unpaid for more than 90 days after the date written notice of the completed work is given by the marina, garage, or repair shop to the vessel owner.
(47) ~~(46)~~ "Vessel" is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and 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.
(48) ~~(47)~~ "Waters of the ~~this~~ state" means any navigable waters of the United States within the territorial limits of Florida ~~this state~~, the marginal sea adjacent to Florida, ~~this state and~~ the high seas when navigated as a part of a journey or ride to or from the shore of Florida ~~this state~~, and all the inland lakes, rivers, and canals under the jurisdiction of Florida ~~this state~~.

327.33 Reckless or careless operation of vessel.—
2) A person who operates any vessel upon the waters of the ~~this~~ state shall 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 to endanger the life, limb, or property of another person due to vessel overloading or excessive speed. The failure to operate a vessel in a manner described in this subsection constitutes careless operation. However, vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel, absent negligence, does not constitute damage or endangerment to property. A person who violates this subsection commits a noncriminal violation as defined in s. 775.08.
(3) Each person operating a vessel upon the waters of the ~~this~~ state shall comply with the navigation rules.

327.352 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—
(1)(a)1. The Legislature declares that the operation of a vessel is a privilege that must be exercised in a reasonable manner. In order to protect the public health and safety, it is essential that a lawful and effective means of reducing the incidence of boating while impaired or intoxicated be established. Therefore, any person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by so operating such vessel, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was operating a vessel while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was operating the vessel within this state while under the influence of alcoholic

beverages. The administration of a breath test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath under this chapter will result in a civil penalty of $500, and shall also be told that if he or she refuses to submit to a lawful test of his or her breath and he or she has been previously fined under s. 327.35215 or has previously had his or her driver license suspended under s. 322.2615 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 and s. 775.083, in addition to any other penalties provided in law. The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

2. Any person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by so operating such vessel, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was operating a vessel while under the influence of chemical substances or controlled substances. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was operating a vessel within this state while under the influence of chemical substances or controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such test in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of a urine test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her urine under this chapter will result in a civil penalty of $500, and shall also be told that if he or she refuses to submit to a lawful test of his or her urine and he or she has been previously fined under s. 327.35215 or has previously had his or her driver license suspended under s. 322.2615 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 and s. 775.083, in addition to any other penalties provided in 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) Any person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by operating such vessel, deemed to have given his or her consent to submit to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided in this section if there is reasonable cause to believe the person was operating a vessel while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical facility and the administration of a breath or urine test is impractical or impossible. As used in this paragraph, the term “other medical facility” includes an ambulance or other medical emergency vehicle. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition is deemed not to have

withdrawn his or her consent to such test. Any person who is capable of refusal shall be told that his or her failure to submit to such a blood test will result in a civil penalty of $500 ~~and that a refusal to submit to a lawful test of his or her blood, if he or she has previously been fined for refusal to submit to any lawful test of his or her breath, urine, or blood, is a misdemeanor~~. The refusal to submit to a blood test upon the request of a law enforcement officer shall be admissible in evidence in any criminal proceeding.

327.35215 Penalty for failure to submit to test.—

(4) It is unlawful for any person who has not paid a civil penalty imposed pursuant to this section, or who has not requested a hearing with respect to the civil penalty, within 30 calendar days after receipt of notice of the civil penalty to operate a vessel upon the waters of the ~~this~~ state. Violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Moneys collected by the clerk of the court pursuant to this section shall be disposed of in the following manner:

(a) If the arresting officer was employed or appointed by a state law enforcement agency, the moneys shall be deposited into the Marine Resources Conservation Trust Fund and used to directly enhance the ability of law enforcement officers to perform law enforcement functions on waters of the state ~~state waters~~.

(b) If the arresting officer was employed or appointed by a county or municipal law enforcement agency, the moneys shall be deposited into the law enforcement trust fund of that agency.

327.355 Operation of vessels by persons under 21 years of age who have consumed alcoholic beverages.—

(2) Any person under the age of 21 who accepts the privilege extended by the laws of this state of operating a vessel upon the waters of the ~~this~~ state, by so operating such vessel, is deemed to have expressed his or her consent to the provisions of this section.

(6) For the purposes of this section, “conviction” means a finding of guilt or the acceptance of a plea of guilty or nolo contendere, regardless of whether or not adjudication was withheld. Notwithstanding the provisions of s. 948.01, no court may suspend, defer, or withhold imposition of sentence for any violation of this section. Any person who operates any vessel on the waters of the ~~this~~ state while his or her vessel operating privilege is suspended pursuant to this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

327.359 Refusal to submit to testing; penalties.—Any person who has refused to submit to a chemical or physical test of his or her breath~~, blood,~~ or urine, as described in s. 327.352, and who has been previously fined under s. 327.35215 or has previously had his or her driver license suspended under s. 322.2615 for refusal to submit to a lawful test of his or her breath, urine, or blood, and:

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

(2) Who was placed under lawful arrest for a violation of s. 327.35 unless such test was requested pursuant to s. 327.352(1)(c);
(3) Who was informed that if he or she refused to submit to such test he or she is subject to a fine of $500;
(4) Who was informed that a refusal to submit to a lawful test of his or her breath or ~~,~~ urine, ~~or blood~~, if he or she has been previously fined under s. 327.35215 or has previously had his or her driver license suspended under s. 322.2615 for refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor of the first degree, punishable as provided in s. 775.082 and s. 775.083,; and
(5) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

327.37 Water skis, parasails, aquaplanes, kiteboarding, kitesurfing, and moored ballooning regulated.—

(1)(a) A person may not operate a vessel on any waters of the ~~this~~ state towing a person on water skis, or an aquaplane, or similar device unless there is in such vessel a person, in addition to the operator, in a position to observe the progress of the person being towed, or the vessel is equipped with a wide-angle rear view mirror mounted in such manner as to permit the operator of the vessel to observe the progress of the person being towed. This subsection does not apply to class A motorboats operated by the person being towed and designed to be incapable of carrying the operator in the motorboat.

(b) A person may not operate a vessel on any waters of the ~~this~~ state towing a person attached to a parasail or similar device unless there is a person in the vessel, in addition to the operator, in a position to observe the progress of the person being towed. A wide-angle rear view mirror is not acceptable for this purpose.

327.371 Human-powered vessels regulated.

(1) A person may not operate a human-powered vessel in a marked channel of the Florida Intracoastal Waterway as defined in s. 327.02, except that a human-powered vessel may cross such a channel provided the crossing is done in the most direct, continuous, and expeditious manner possible and does not interfere with other vessel traffic in the channel.
(2) An operator who violates this section commits a noncriminal infraction, punishable as provided in s. 327.73.

327.39 Personal watercraft regulated.—

(5) No person under the age of 14 shall operate any personal watercraft on the waters of the ~~this~~ state.

327.391 Airboats regulated.—

(1) The exhaust of every internal combustion engine used on any airboat operated on the waters of the ~~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(30). The use of cutouts or flex pipe as the sole source of muffling is prohibited, except as provided in subsection (4). Any person who violates this subsection commits a noncriminal infraction punishable as provided in s. 327.73(1).

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

1. A photographic identification card.

2. Proof of completion of a boater education course that complies with s. 327.395(2)(a) ~~327.395(1)(a)~~. Except as provided in paragraph (b), no operator is exempt from this requirement, regardless of age or the exemptions provided under s. 327.395.

3. Proof of successful completion of a commission-approved airboat operator course that meets the minimum standards established by commission rule.

4. Proof of successful course completion in cardiopulmonary resuscitation and first aid.

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

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

(d) The commission shall adopt rules to implement this subsection no later than October 1, 2018.

327.395 Boating safety education.—

(1) The following persons shall not ~~A person born on or after January 1, 1988, may not~~ operate a vessel ~~powered by a motor of 10 horsepower or greater~~ unless such persons have ~~has~~ in their ~~his or her~~ possession aboard the vessel the documents required by subsection (2):

(a) Effective July 1, 2022, any person born on or after January 1, 1970;

(b) Effective July 1, 2027, any person born on or after January 1, 1935.

(2) A person listed in subsection (1), while operating a vessel, shall have in his or her possession aboard the vessel photographic identification and a boating safety identification card issued by the commission, a state-issued identification card or driver license indicating possession of the boating safety identification card, or photographic identification and a temporary certificate issued or approved by the commission, which shows ~~s~~ that he or she has:

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

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

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

(b) A person may obtain a temporary certificate by passing a temporary certificate examination that meets the requirements of this section and rules adopted by the commission pursuant to this section.

(4) ~~(3)~~ Any commission-approved boating safety education course or temporary certificate examination developed or approved by the commission must include a component regarding ~~diving vessels,~~ awareness of divers in the water, divers-down warning devices, and the requirements of s. 327.331.

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

(5) A boating safety identification card issued to a person who has completed a boating safety education course is valid for life. A temporary certificate issued to a person who has passed a temporary certification examination is valid for 90 days after the date of issuance. The commission may issue either the boating safety identification card or the temporary certificate in a digital, electronic, or paper format.

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

(a) Is licensed by the United States Coast Guard to serve as master of a vessel; or has been previously licensed by the United States Coast Guard to serve as the master of a vessel, provided he or she provides proof of such to the Fish and Wildlife Conservation Commission and requests a boating safety identification card be issued in his or her name.

(b) Operates a vessel only on a private lake or pond.

(c) Is accompanied in the vessel by a person who is exempt from this section or who holds a boating safety identification card in compliance with this section, who is 18 years of age or older, and who is attendant to the operation of the vessel and responsible for the safe operation of the vessel and for any violation that occurs during the operation of the vessel.

(d) Is a nonresident who has in his or her possession photographic identification and proof that he or she has completed a boating safety education course or equivalency examination in another state or a United States territory which meets or exceeds the minimum requirements established by the National Association of State Boating Law Administrators.

(e) Is operating a vessel within 90 days after the purchase of that vessel and has available for inspection aboard that vessel a bill of sale meeting the requirements of s. 328.46(1).

(f) Is operating a vessel within 90 days after completing a boating safety education course in accordance with paragraph (2)(a)~~the requirements of paragraph (1)(a)~~ and has a photographic identification card and a boating safety education certificate available for inspection as proof of having completed a boating safety education course. The boating safety education certificate must provide, at a minimum, the student's first and last name, the student's date of birth, and the date that he or she passed the course examination.

(g) Is younger than sixteen years of age and operating a human-powered vessel within clear sight and sound proximity of another human-powered vessel operator who is 18 years of age or older, who is exempt from this section pursuant to subsection (6)(a) or who holds a boating safety

identification card in compliance with this section, and who is providing direct and immediate supervision for the minor operator.
(h) ~~(g)~~ Is exempted by rule of the commission.
(7) A person who operates a vessel in violation of this section ~~subsection (1)~~ commits a noncriminal infraction, punishable as provided in s. 327.73.
(8) The commission shall institute and coordinate a statewide program of boating safety instruction and certification to ensure that boating safety courses and examinations are available in each county of the state. The commission may appoint agents to administer the boating safety education course or temporary certificate examination and may authorize the agents to issue temporary certificates in digital, electronic, or paper format. The agents shall charge and collect the $2 fee required in subsection (9) for each temporary certificate requested of the commission by that agent, which must be forwarded to the commission. The agent may charge and keep a $1 service fee.
(9) The commission is authorized to establish and to collect a $2 fee for each card and temporary certificate issued pursuant to this section.
(10) The commission shall design forms and adopt rules pursuant to chapter 120 to implement the provisions of this section.
(11) This section may be cited as the "Osmany 'Ozzie' Castellanos Boating Safety Education Act."

327.396 Riding on the exterior of a power-driven vessel; permitting another to ride on the exterior of a power-driven vessel; prohibited
(1) No person shall sit upon the bow, transom or gunwale of a power-driven vessel with any portion of a foot or leg over the uppermost outside edge of the vessel while the vessel is making way.
(2) The operator of a power-driven vessel shall not permit any person to sit upon the bow, gunwale, or transom of the vessel with any portion of a foot or leg over the uppermost outside edge of the vessel while the vessel is making way.
(3) Definitions. As used in this subsection:
(a) Making way shall mean while the vessel is moving relative to the surface of the water as a result of the vessel's machinery.
(d) Power-driven vessel shall mean any vessel propelled by machinery.
(4) A person who violates this section commits a noncriminal infraction, punishable as provided in s. 327.73.

327.40 Uniform waterway markers.—
(1) Waters of the ~~this~~ state shall be marked only in conformity with the United States Aids to Navigation System, 33 C.F.R. part 62.
(2)(a) Application for marking inland lakes and waters of the state ~~state waters~~ and any navigable waters under concurrent jurisdiction of the Coast Guard and the division shall be made to the division, accompanied by a map locating the approximate placement of markers, a list of the markers to be placed, a statement of the specification of the markers, a statement of the purpose of marking, and the names of persons responsible for the placement and upkeep of such

markers. The division will assist the applicant to secure the proper permission from the Coast Guard where required, make such investigations as needed, and issue a permit. The division shall furnish the applicant with the information concerning the system adopted and the rules existing for placing and maintaining the markers. The division shall keep records of all approvals given and counsel with individuals, counties, municipalities, motorboat clubs, or other groups desiring to mark waterways for safety and navigation purposes in Florida.

(b)1. No person or municipality, county, or other governmental entity shall place any uniform waterway marker in, on, or over the waters or shores of the state without a permit from the division.

2. The placement of information markers by counties, municipalities, or other governmental entities on inland lakes and their associated canals are exempt from permitting under this section.

(c) The commission is authorized to adopt rules pursuant to chapter 120 to implement this section.

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

(1) To prevent vessels in neglected or deteriorating condition from reaching a likely and foreseeable state of disrepair, a vessel that is at risk of becoming derelict pursuant to subsection (2) may not anchor on, moor on, or occupy the waters of the ~~this~~ state.

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

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

(3) A person who anchors or moors a vessel at risk of becoming derelict on the waters of the ~~this~~ state or allows such a vessel to occupy such waters commits a noncriminal infraction, punishable as provided in s. 327.73.

(4) The penalty under this section is in addition to other penalties provided by law.

~~(5) This section does not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs.~~

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

(6) The provisions of this section do not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs.

(7) The commission may establish a derelict vessel prevention program to address vessels at risk of becoming derelict. This program may include, but shall not be required to include:
(a) Removal, relocation, and destruction of vessels declared a public nuisance in accordance with s. 327.521, s. 327.53, s. 327.73(1)(aa), s. 705.103(2) and (4), s. 823.11(3);
(b) Creation of a vessel turn-in (VTIP) program, allowing the owners of vessels determined by law enforcement to be at risk of becoming derelict in accordance with this section, to turn their vessel and vessel title over to the commission to be destroyed without penalty;
(c) Providing for removal of abandoned vessels for which an owner cannot be identified, or for which the owner of a vessel is deceased and no heir is interested in acquiring the vessel;
(d)Purchase of anchor line, anchors and other equipment necessary for securing vessels at risk of becoming derelict; and
(e) creating or acquiring moorings designated for securing vessels at risk of becoming derelict.

The derelict vessel prevention program created pursuant to this subsection may include other preventative efforts and methods as determined appropriate and necessary by the commission. The commission may adopt rules to implement this subsection. Implementation of the derelict vessel prevention program shall be subject to appropriation by the Legislature and shall be funded from the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund.

327.4109 Anchoring or mooring prohibited; exceptions; penalties.—
(1)(a) The owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:
1. Within 150 feet of any marina, boat ramp, boatyard, private facility that provides secure moorings or dry storage to users, or other vessel launching or loading facility;
2. Within 300 feet of a superyacht repair facility. For purposes of this subparagraph, the term "superyacht repair facility" means a facility that services or repairs a yacht with a water line of 120 feet or more in length; or
3. Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the commission upon request of a local government within which the mooring field is located. The commission may adopt rules to implement this subparagraph.
(b) This subsection does not apply to:
1. A vessel owned or operated by a governmental entity.
2. A construction or dredging vessel on an active job site.
3. A commercial fishing vessel actively engaged in commercial fishing.
4. A vessel actively engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.
(2) Notwithstanding subsection (1), an owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, boatyard, private facility that provides secure moorings or dry storage to users, 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:

(a) The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for 5 business days or until the vessel is repaired, whichever occurs first.
(b) Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.
(4) The owner or operator of a vessel or floating structure may not anchor, moor, tie, or otherwise affix or allow the vessel or floating structure to remain anchored, moored, tied, or otherwise affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of the waters of the ~~this~~ state. This subsection does not apply to a private mooring owned by the owner of privately owned submerged lands.

327.46 Boating-restricted areas.—
(1) Boating-restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on the waters of the ~~this~~ state for any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.
(a) The commission may establish boating-restricted areas by rule pursuant to chapter 120.
(b) Municipalities and counties have the authority to establish the following boating-restricted areas by ordinance:
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.

327.462 Special hazards.—
(1) For purposes of this section, a vessel:
(a) Is operating at slow speed, minimum wake only if it is:
1. Fully off plane and completely settled into the water; and
2. Proceeding without wake or with minimum wake.

A vessel that is operating at slow speed, minimum wake may not proceed at a speed greater than a speed that is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under the existing circumstances.
(b) Is not proceeding at slow speed, minimum wake if it is:

1. Operating on plane;
2. In the process of coming off plane and settling into the water or getting on plane; or
3. Operating at a speed that creates a wake which unreasonably or unnecessarily endangers other vessels.
(2) A person may not operate a vessel faster than slow speed, minimum wake upon approaching within 300 feet of any emergency vessel, including, but not limited to, a law enforcement vessel, United States Coast Guard vessel, or firefighting vessel, when such emergency vessel has its emergency lights activated.
(3)(a) A person may not operate a vessel faster than slow speed, minimum wake upon approaching within 300 feet of any construction vessel or barge when the vessel or barge is displaying an orange flag from a pole extending:
1. At least 10 feet above the tallest portion of the vessel or barge, indicating that the vessel or barge is actively engaged in construction operations; or
2. At least 5 feet above any superstructure permanently installed upon the vessel or barge, indicating that the vessel or barge is actively engaged in construction operations.
(b) A flag displayed on a vessel or barge pursuant to this subsection must:
1. Be at least 2 feet by 3 feet in size;
2. Have a wire or other stiffener or be otherwise constructed to ensure that the flag remains fully unfurled and extended in the absence of a wind or breeze; and
3. Be displayed so that the visibility of the flag is not obscured in any direction.
(c) In periods of low visibility, including any time between the hours from 30 minutes after sunset and 30 minutes before sunrise, a person may not be cited for a violation of this subsection unless the orange flag is illuminated and visible from a distance of at least 2 nautical miles. Such lighting shall not relieve the construction vessel or barge from complying with all requirements of the navigation rules.
(4)(a) A person operating a vessel in violation of this section commits a noncriminal infraction, punishable as provided in s. 327.73.
(b) The owner of, or party who is responsible for, a construction vessel or barge who displays an orange flag on the vessel or barge when it is not actively engaged in construction operations commits a noncriminal infraction, punishable as provided in s. 327.73.
(5) The speed and penalty provisions of this section do not apply to a law enforcement, firefighting, or rescue vessel that is owned or operated by a governmental entity.

327.50 Vessel safety regulations; equipment and lighting requirements.—
(1)(a) The owner and operator of every vessel on the waters of the ~~this~~ state shall carry, store, maintain, and use safety equipment in accordance with current United States Coast Guard safety equipment requirements as specified in the Code of Federal Regulations, unless expressly exempted by the commission ~~department~~.
(b) A person may not operate a vessel less than 26 feet in length on the waters of the ~~this~~ state unless every person under 6 years of age on board the vessel is wearing a personal flotation device currently approved by the United States Coast Guard and used in accordance with the United States Coast Guard approval label while such vessel is underway. For the purpose of this

section, “underway” means at all times except when a vessel is anchored, moored, made fast to the shore, or aground.
(2) No person shall operate a vessel on the waters of the ~~this~~ state unless said vessel is equipped with properly serviceable lights and shapes required by the navigation rules.

327.521 No Discharge Zones
(1) All waters of the state are designated No Discharge Zones. No person shall discharge sewage of any type, whether treated or untreated, from any vessel, including houseboats, or any floating structure, into waters of the State. A violation of this subsection is a noncriminal infraction, punishable by a civil penalty of up to $250. If any discharge prohibited by this subsection is ongoing or continuous, the operator may be assessed a penalty not to exceed $250 per day for so long as the violation continues.
(2) Any vessel or floating structure in violation of this section is declared a nuisance and a hazard to public safety and health. The owner or operator of any vessel or floating structure convicted a second time for violating this section shall, within 30 days following the issuance of the citation, remove the vessel or floating structure from the waters of the state. If the vessel or floating structure remains on the waters of the state in violation of this section, law enforcement officers charged with the enforcement of this chapter under s. 327.70 shall apply to the appropriate court in the county in which the vessel or floating structure is located, to order or otherwise cause the removal of such vessel or floating structure from the waters of the state at the owner’s expense. If the owner cannot be found or otherwise fails to pay the removal costs, the provisions of s. 328.17 shall apply. If the proceeds under s. 328.17 are not sufficient to pay all removal costs, funds appropriated from the Marine Resources Conservation Trust Fund pursuant to paragraph 327.53(7)(b) or s. 328.72(15)(c) may be used. For purposes of this section, conviction shall mean any disposition other than acquittal or dismissal.
(3) This section shall become effective upon approval by the United States Environmental Protection Agency of a No Discharge Zone determination for the waters of the United States within the territorial limits of the State.

327.53 Marine sanitation.—
(4)(a) ~~Raw sewage shall not be discharged from any vessel, including houseboats, or any floating structure in Florida waters.~~ The operator of any vessel which is plumbed so that a toilet may be flushed directly into the water or so that a holding tank may be emptied into the water shall, while the vessel is on the waters of the state, set the valve or other mechanism directing the sewage so as to prevent direct discharge and lock or otherwise secure the valve so as to prevent resetting.
(b) All waste from Type III marine sanitation devices shall be disposed in an approved sewage pumpout facility.
(c) All waste from portable toilets shall be disposed in an approved waste reception facility.
(5) Every vessel owner, operator, and occupant shall comply with United States Coast Guard regulations pertaining to marine sanitation devices and with United States Environmental Protection Agency regulations pertaining to areas in which the discharge of sewage, treated or untreated, is prohibited.

(6)(a) A violation of this section is a noncriminal infraction punishable as provided in s. 327.73. Each violation shall be a separate offense. The owner and operator of any vessel shall be jointly and severally liable for the civil penalty imposed pursuant to this section.
(b) All civil penalties imposed and collected pursuant to this section shall be deposited in the Marine Resources Conservation Trust Fund and shall be used: to implement, administer, and enforce this act; to construct, renovate, or operate pumpout stations and waste reception facilities; and to conduct a program to educate vessel operators about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.
(7) Any vessel or floating structure operated or occupied on the waters of the state in violation of this section is declared a nuisance and a hazard to public safety and health. The owner or operator of any vessel or floating structure cited for violating this section shall, within 30 days following the issuance of the citation, correct the violation for which the citation was issued or remove the vessel or floating structure from the waters of the state. If the violation is not corrected within the 30 days and the vessel or floating structure remains on the waters of the state in violation of this section, law enforcement officers charged with the enforcement of this chapter under s. 327.70 shall apply to the appropriate court in the county in which the vessel or floating structure is located, to order or otherwise cause the removal of such vessel or floating structure from the waters of the state at the owner's expense. If the owner cannot be found or otherwise fails to pay the removal costs, the provisions of s. 328.17 shall apply. If the proceeds under s. 328.17 are not sufficient to pay all removal costs, funds appropriated from the Marine Resources Conservation Trust Fund pursuant to paragraph (6)(b) or s. 328.72(15)(c) ~~328.72(16)~~ may be used.
(8) The owner or operator of a liveaboard or houseboat that has a marine sanitation device shall maintain a record of the date of each pumpout of the marine sanitation device and the location of the pumpout facility. Each record shall be maintained for a period of one year from the date of the pumpout.

327.54 Liveries; safety regulations; penalty.—
(2) A livery may not knowingly lease, hire, or rent any vessel ~~powered by a motor of 10 horsepower or greater~~ to any person who is required to comply with s. 327.395, unless such person presents to the livery photographic identification and a valid boater safety identification card issued by the commission, a state-issued identification card or driver license indicating possession of the boating safety identification card, or photographic identification and a valid temporary certificate issued or approved by the commission as required under s. 327.395(2) ~~327.395(1)~~, or meets the exemption provided under s. 327.395(6)(f).

327.58 Jurisdiction.—The safety regulations included under this chapter shall apply to all vessels, except as specifically excluded, operating upon the waters of the ~~this~~ state.

327.60 Local regulations; limitations.—

(1) The provisions of this chapter and chapter 328 shall govern the operation, equipment, and all other matters relating thereto whenever any vessel shall be operated upon the waters of the ~~this~~ state or when any activity regulated hereby shall take place thereon.
(5) A local government may enact and enforce regulations to implement the procedures for abandoned or lost property that allow the local law enforcement agency to remove a vessel affixed to a public dock or mooring within its jurisdiction that is abandoned or lost property pursuant to s. 705.103(1). Such regulation must require the local law enforcement agency to post a written notice at least 24 hours before removing the vessel.

327.65 Muffling devices.—
(1) The exhaust of every internal combustion engine used on any vessel operated on the waters of the ~~this~~ state shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner. The use of cutouts is prohibited, except for vessels competing in a regatta or official boat race, and for such vessels while on trial runs.

327.66 Carriage of gasoline on vessels.—
(2)(a) Gasoline possessed or transported in violation of this section and all containers holding such gasoline are declared to be a public nuisance. A law enforcement agency discovering gasoline possessed or transported in violation of paragraph (1)(a) shall abate the nuisance by removing the gasoline and containers from the vessel and from the waters of the ~~this~~ state. A law enforcement agency that removes gasoline or containers pursuant to this subsection may elect to:
1. Retain the property for the agency's own use;
2. Transfer the property to another unit of state or local government;
3. Donate the property to a charitable organization; or
4. Sell the property at public sale pursuant to s. 705.103.
(5) Foreign flagged vessels entering United States waters and waters of the ~~this~~ state in compliance with 19 U.S.C. s. 1433 are exempt from this section.

327.70 Enforcement of this chapter and chapter 328.—
(3)(a) Noncriminal violations of the following statutes may be enforced by a uniform boating citation mailed to the registered owner of an unattended vessel anchored, aground, or moored on the waters of the ~~this~~ state:
1. Section 327.33(3)(b), relating to navigation rules.
2. Section 327.44, relating to interference with navigation.
3. Section 327.50(2), relating to required lights and shapes.
4. Section 327.53, relating to marine sanitation.
5. Section 328.48(5), relating to display of decal.
6. Section 328.52(2), relating to display of number.
7. Section 327.4107, relating to vessels at risk of becoming derelict.
8. Section 327.4109, relating to prohibited anchoring or mooring.

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:
(q) Section 327.53(1), (2), ~~and~~ (3), and (8) relating to marine sanitation.
(aa) Section 327.4107, relating to vessels at risk of becoming derelict on waters of the ~~this~~ state, for which the civil penalty is:
1. For a first offense, $100 ~~$50~~.
2. For a second offense occurring 30 days or more after a first offense, $250 ~~$100~~.
3. For a third or subsequent offense occurring 30 days or more after a previous offense, $500 ~~$250~~.
A vessel that is the subject of three or more violations issued pursuant to the same paragraph of s. 327.4107(2) within an 18-month period which result in dispositions other than acquittal or dismissal shall be declared to be a public nuisance and subject to the provisions in s. 705.103(2) and (4) and s. 823.11(3). The commission, officers of the commission, and any law enforcement agency or officer specified in s. 327.70 are authorized and empowered to relocate, remove, or cause to be relocated or removed such public nuisance vessels from waters of the state. The commission, officers of the commission, or any other law enforcement agency or officer acting under this subsection to relocate, remove, or cause to be relocated or removed such a public nuisance vessel from waters of the state shall be held harmless for all damages to the vessel resulting from such relocation or removal unless the damage results from gross negligence or willful misconduct as these terms are defined in s. 823.11.
(cc) Section 327.462(4)(a) and (4)(b), relating to vessels creating special hazards, for which the penalty is:
1. For a first offense, $50.
2. For a second offense occurring within 12 months after a prior offense, $100.
3. For a third offense occurring within 36 months after a prior offense, $250.
(dd) Section 327.396(1) and (2), relating to riding on the exterior of a power-driven vessel or permitting another to ride on the exterior of a power-driven vessel.
(ee) Section 327.371, relating to the regulation of human-powered vessels.
(ff) Section 327.521, relating to No Discharge Zones, for which the penalty is up to a maximum of $250 for each offense.

327.731 Mandatory education for violators.—
(2) For the purposes of this section, "conviction" means a finding of guilt, or the acceptance of a plea of guilty or nolo contendere, regardless of whether or not adjudication was withheld or whether imposition of sentence was withheld, deferred, or suspended. Any person who operates a vessel on the waters of the ~~this~~ state in violation of the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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) ~~327.02(30)~~. The use of cutouts or flex pipe as the sole

source of muffling is prohibited, except as provided in subsection (4). Any person who violates this subsection commits a noncriminal infraction punishable as provided in s. 327.73(1).

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

376.15 Derelict vessels; relocation or removal from public waters.—
(3)(a) The commission, officers of the commission, and any law enforcement agency or officer specified in s. 327.70 are authorized and empowered to relocate, remove, or cause to be relocated or removed any derelict vessel as defined in s. 823.11 from public waters of the state, as defined in s. 327.02. All costs, including costs owed to a third party, incurred by the commission or other law enforcement agency in the relocation or removal of any abandoned or derelict vessel are recoverable against the owner of the vessel. The Department of Legal Affairs shall represent the commission in actions to recover such costs.
(b) The commission, officers of the commission, and any other law enforcement agency or officer specified in s. 327.70 acting under this section to relocate, remove, or cause to be relocated or removed a derelict vessel or an abandoned vessel from public waters of the state, as defined in s. 327.02, shall be held harmless for all damages to the derelict vessel resulting from such relocation or removal unless the damage results from gross negligence or willful misconduct.
(c) A contractor performing relocation or removal activities at the direction of the commission, officers of the commission, ~~or~~ a law enforcement agency or officer, or a governmental subdivision, when the governmental subdivision has received authorization for the relocation or removal from a law enforcement officer or agency pursuant to this section must be licensed in accordance with applicable United States Coast Guard regulations where required; obtain and carry in full force and effect a policy from a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions; and be properly equipped to perform the services to be provided.
(d) The commission may establish a program to provide grants to local governments for the removal, destruction, and disposal of derelict vessels from the public waters of the state. The program shall be funded from the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund. Notwithstanding the provisions in s. 216.181(11), funds available for grants may only be authorized by appropriations acts of the Legislature. In a given fiscal year, if all funds appropriated pursuant to this paragraph are not requested by and granted to local governments for the removal of derelict vessels by the end of the third quarter, the Fish and

Wildlife Conservation Commission may use the remainder of the funds to remove, destroy, and dispose of, or to pay private contractors to remove, destroy, and dispose of derelict vessels.
(e) The commission shall adopt by rule procedures for submitting a grant application and criteria for allocating available funds. Such criteria shall include, but not be limited to, the following:
1. The number of derelict vessels within the jurisdiction of the applicant.
2. The threat posed by such vessels to public health or safety, the environment, navigation, or the aesthetic condition of the general vicinity.
3. The degree of commitment of the local government to maintain waters free of abandoned and derelict vessels and to seek legal action against those who abandon vessels in the waters of the state.
(f) This subsection constitutes the authority for such removal but is not intended to be in contravention of any applicable federal act.

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

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

b. A derelict vessel or a vessel declared a public nuisance in s 327.73(1)(aa) is present on the waters of the state, the officer shall cause a notice to be placed upon the 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 the 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 may 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 will be liable for the costs of removal, destruction, and disposal if this vessel is not removed by the owner. Dated this: ... (setting forth

the date of posting of notice) ..., signed: ... (setting forth name, title, address, and telephone number of law enforcement officer) ....

2. The notices required under subparagraph 1. may ~~Such notice shall be~~ not be less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name and address of the owner. If such is reasonably available to the officer, she or he shall mail a copy of such notice to the owner on or before the date of posting. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in s. 319.27(2) or (3) or s. 328.15(1). On receipt of this information, the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any, except that a law enforcement officer who has issued a citation for a violation of s. 823.11 or s. 376.15 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 in s. 327.73(1)(aa), the mailed notice shall 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 government entities shall follow the processes set forth in s. 120.569, with the exception that a local judge, magistrate, or code enforcement officer may be designated to conduct such hearings. If, at the end of 5 days, or 21 days for a derelict vessel or a vessel declared a public nuisance in s. 327.73(1)(aa), after posting the notice 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 in ss. 327.73(1)(aa), has not requested a hearing in accordance with this section, the following shall apply:

a. ~~(a)~~ For abandoned property other than a derelict vessel or a vessel declared a public nuisance in 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 in s. 327.73(1)(aa), the law enforcement agency or its designee may:

1. Remove the vessel from the waters of the state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so; or

2. Authorize the vessel's use as an artificial reef if all necessary local, state, and federal authorizations are received.

A law enforcement agency or its designee may also remove a vessel from the waters of the state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so or shall authorize the vessel's use as an artificial reef if all necessary local, state, and

federal authorizations are received, 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 who, after notice as provided in this section, does not remove such property within the specified period shall be liable to the law enforcement agency, other governmental entity, or their designee for all costs of removal, storage, and destruction of such property, less any salvage value obtained by disposal of the property. Upon final disposition of the property, the law enforcement officer or representative of the law enforcement agency or other governmental entity shall notify the owner, if known, of the amount owed. In the case of an abandoned vessel or motor vehicle, any person who neglects or refuses to pay such amount is not entitled to be issued a certificate of registration for such vessel or motor vehicle, or any other vessel or motor vehicle, until such costs have been paid. A person who has neglected or refused to pay all costs of removal, storage, and destruction of a vessel or motor vehicle as provided herein, after having been provided written notice via certified mail that such costs are owed, and who applies for and is issued a registration for any 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 shall supply the Department of Highway Safety and Motor Vehicles with a list of persons whose vessel registration privileges and ~~or whose~~ motor vehicle privileges have been revoked under this subsection. Neither the department nor any other person acting as agent thereof shall issue a certificate of registration to a person whose vessel or motor vehicle registration privileges have been revoked, as provided by this subsection, until such costs have been paid.

823.11 Derelict vessels; relocation or removal; penalty.—

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

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

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

1. In a wrecked, junked, or substantially dismantled condition upon any public waters of the ~~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 following a marine casualty, including, but not limited to, a boating accident, extreme weather, or fire.

b. A vessel is junked if it has been substantially stripped of vessel components, vessel components have substantially degraded or been destroyed, or 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 where such motor is not an effective means of propulsion as required by section 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:

1. steering system;

2. propulsion system; or

3. 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 where such motor is not an effective means of propulsion as required by section 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) It is unlawful for a person, firm, or corporation to store, leave, or abandon any derelict vessel in this state.

(3) The commission, officers of the commission, and any law enforcement agency or officer specified in s. 327.70 are authorized and empowered to relocate, remove, or cause to be relocated or removed a derelict vessel from public waters of the 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, officers of the commission, or any other law enforcement agency or officer acting under this subsection to relocate, remove, or cause to be relocated or removed a derelict vessel from public waters of the state shall be held harmless for all damages to the derelict vessel resulting from such relocation or removal unless the damage results from gross negligence or willful misconduct.

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

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

(c) A contractor performing relocation or removal activities at the direction of the commission, officers of the commission, ~~or~~ a law enforcement agency or officer, or a governmental subdivision, when the governmental subdivision has received authorization for the relocation or removal from a law enforcement officer or agency pursuant to this section must be licensed in accordance with applicable United States Coast Guard regulations where required; obtain and carry in full force and effect a policy from a licensed insurance carrier in this state to insure

against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions; and be properly equipped to perform the services to be provided.