

1 A bill to be entitled
 2 An act relating to vessel collisions, accidents, and
 3 casualties; amending s. 327.30, F.S.; revising and
 4 providing penalties for a vessel operator who is
 5 involved in an accident that causes damage, injury, or
 6 death and leaves the scene of the accident without
 7 complying with certain requirements; providing
 8 mandatory minimum sentencing for a specified
 9 violation; amending s. 327.33, F.S.; providing
 10 penalties for reckless or careless operation of a
 11 vessel that causes serious bodily injury; reenacting
 12 and amending s. 327.35, F.S.; relating to boating
 13 under the influence to incorporate amendments made by
 14 the act; providing penalties for operation of a vessel
 15 while under the influence that causes the death of an
 16 unborn child; providing mandatory minimum sentencing
 17 for a specified violation; providing a definition;
 18 amending s. 782.072, F.S.; revising and providing
 19 definitions; providing an effective date.

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

22
 23 Section 1. Subsection (5) of section 327.30, Florida
 24 Statutes, is amended to read:
 25 327.30 Collisions, accidents, and casualties.—

26 (5) (a) It is unlawful for a person operating a vessel
 27 involved in an accident that causes damage, or injury, or death
 28 to leave the scene of the accident ~~or injury~~ without giving all
 29 possible aid to all persons involved and making a reasonable
 30 effort to locate the owner or persons affected and subsequently
 31 complying with and notifying the appropriate law enforcement
 32 official as required under this section.

33 (b) A person who violates this subsection with respect to
 34 an accident that results in:

35 1. Only property damage commits a misdemeanor of the first
 36 degree, punishable as provided in s. 775.082, or s. 775.083.

37 2. Injury to a person other than serious bodily injury as
 38 defined in s. 327.353(1) (b) commits a felony of the third
 39 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 40 775.084.

41 3. Serious bodily injury as defined in s. 327.353(1) (b)
 42 commits a felony of the second degree, punishable as provided in
 43 s. 775.082, s. 775.083, or s. 775.084.

44 4. The death of another person commits a felony of the
 45 first degree, punishable as provided in s. 775.082, s. 775.083,
 46 or s. 775.084. A person who willfully commits a violation of
 47 this subparagraph while operating a vessel under the influence
 48 as set forth in s. 327.35 shall be sentenced to a mandatory
 49 minimum term of imprisonment of 4 years ~~Any person who violates~~
 50 ~~this subsection with respect to an accident resulting in~~

51 ~~personal injury commits a felony of the third degree, punishable~~
52 ~~as provided in s. 775.082, s. 775.083, or s. 775.084. Any person~~
53 ~~who violates this subsection with respect to an accident~~
54 ~~resulting in property damage only commits a misdemeanor of the~~
55 ~~second degree, punishable as provided in s. 775.082 or s.~~
56 ~~775.083.~~

57 Section 2. Subsection (1) of section 327.33, Florida
58 Statutes, is amended to read:

59 327.33 Reckless or careless operation of vessel.—

60 (1) It is unlawful to operate a vessel in a reckless
61 manner. A person who operates any vessel, or manipulates any
62 water skis, aquaplane, or similar device, in willful or wanton
63 disregard for the safety of persons or property at a speed or in
64 a manner as to endanger, or likely to endanger, life or limb, or
65 damage the property of, or injure a person is guilty of reckless
66 operation of a vessel. Reckless operation of a vessel includes,
67 but is not limited to, a violation of s. 327.331(6).

68 (a) A person who violates this subsection commits a
69 misdemeanor of the first degree, punishable as provided in s.
70 775.082 or s. 775.083.

71 (b) A person who violates this subsection and by reason of
72 such operation causes serious bodily injury as defined in s.
73 327.353(1)(b) to another person commits a felony of the third
74 degree, punishable as provided in s. 775.082, s. 775.083, or s.
75 775.084.

76 Section 3. For the purpose of incorporating the amendment
77 made by this act to section 327.30, Florida Statutes, in a
78 reference thereto, section 327.35, Florida Statutes, is
79 reenacted, and subsection (3) of that section is amended, to
80 read:

81 327.35 Boating under the influence; penalties; "designated
82 drivers."—

83 (1) A person is guilty of the offense of boating under the
84 influence and is subject to punishment as provided in subsection

85 (2) if the person is operating a vessel within this state and:

86 (a) The person is under the influence of alcoholic
87 beverages, any chemical substance set forth in s. 877.111, or
88 any substance controlled under chapter 893, when affected to the
89 extent that the person's normal faculties are impaired;

90 (b) The person has a blood-alcohol level of 0.08 or more
91 grams of alcohol per 100 milliliters of blood; or

92 (c) The person has a breath-alcohol level of 0.08 or more
93 grams of alcohol per 210 liters of breath.

94 (2)(a) Except as provided in paragraph (b), subsection
95 (3), or subsection (4), any person who is convicted of a
96 violation of subsection (1) shall be punished:

97 1. By a fine of:

98 a. Not less than \$500 or more than \$1,000 for a first
99 conviction.

100 b. Not less than \$1,000 or more than \$2,000 for a second

101 conviction; and

102 2. By imprisonment for:

103 a. Not more than 6 months for a first conviction.

104 b. Not more than 9 months for a second conviction.

105

106 The portion of a fine imposed in excess of \$500 pursuant to sub-
107 subparagraph 1.a. and the portion of a fine imposed in excess of
108 \$1,000 pursuant to sub-subparagraph 1.b., shall be remitted by
109 the clerk to the Department of Revenue for deposit into the
110 General Revenue Fund.

111 (b)1. Any person who is convicted of a third violation of
112 this section for an offense that occurs within 10 years after a
113 prior conviction for a violation of this section commits a
114 felony of the third degree, punishable as provided in s.
115 775.082, s. 775.083, or s. 775.084.

116 2. Any person who is convicted of a third violation of
117 this section for an offense that occurs more than 10 years after
118 the date of a prior conviction for a violation of this section
119 shall be punished by a fine of not less than \$2,000 or more than
120 \$5,000 and by imprisonment for not more than 12 months. The
121 portion of a fine imposed in excess of \$2,500 pursuant to this
122 subparagraph shall be remitted by the clerk to the Department of
123 Revenue for deposit into the General Revenue Fund.

124 3. Any person who is convicted of a fourth or subsequent
125 violation of this section, regardless of when any prior

126 conviction for a violation of this section occurred, commits a
 127 felony of the third degree, punishable as provided in s.
 128 775.082, s. 775.083, or s. 775.084.

129
 130 However, the fine imposed for such fourth or subsequent
 131 violation may not be less than \$2,000. The portion of such fine
 132 imposed in excess of \$1,000 shall be remitted by the clerk to
 133 the Department of Revenue for deposit into the General Revenue
 134 Fund.

135 (3) Any person:

136 (a) Who is in violation of subsection (1);

137 (b) Who operates a vessel; and

138 (c) Who, by reason of such operation, causes or
 139 contributes to causing:

140 1. Damage to the property or person of another commits a
 141 misdemeanor of the first degree, punishable as provided in s.
 142 775.082 or s. 775.083.

143 2. Serious bodily injury to another, as defined in s.
 144 327.353, commits a felony of the third degree, punishable as
 145 provided in s. 775.082, s. 775.083, or s. 775.084.

146 3. The death of any human being or unborn child commits
 147 BUI manslaughter, and commits:

148 a. A felony of the second degree, punishable as provided
 149 in s. 775.082, s. 775.083, or s. 775.084.

150 b. A felony of the first degree, punishable as provided in

151 s. 775.082, s. 775.083, or s. 775.084, if:

152 (I) At the time of the accident, the person knew, or
 153 should have known, that the accident occurred; and

154 (II) The person failed to give information and render aid
 155 as required by s. 327.30.

156
 157 As used in this subsection, the term "unborn child" has the same
 158 meaning as in s. 775.021(5)(e). ~~This~~ Sub-subparagraph 3. does
 159 not require that the person knew that the accident resulted in
 160 injury or death. A person who is convicted of BUI manslaughter
 161 shall be sentenced to a mandatory minimum term of imprisonment
 162 of 4 years.

163 (4) Any person who is convicted of a violation of
 164 subsection (1) and who has a blood-alcohol level or breath-
 165 alcohol level of 0.15 or higher, or any person who is convicted
 166 of a violation of subsection (1) and who at the time of the
 167 offense was accompanied in the vessel by a person under the age
 168 of 18 years, shall be punished:

169 (a) By a fine of:

170 1. Not less than \$1,000 or more than \$2,000 for a first
 171 conviction.

172 2. Not less than \$2,000 or more than \$4,000 for a second
 173 conviction.

174 3. Not less than \$4,000 for a third or subsequent
 175 conviction.

176 (b) By imprisonment for:

177 1. Not more than 9 months for a first conviction.

178 2. Not more than 12 months for a second conviction.

179

180 The portion of a fine imposed in excess of \$1,000 pursuant to
181 subparagraph (a)1. and the portion of a fine imposed in excess
182 of \$2,000 pursuant to subparagraph (a)2. or subparagraph (a)3.,
183 shall be remitted by the clerk to the Department of Revenue for
184 deposit into the General Revenue Fund. For the purposes of this
185 subsection, only the instant offense is required to be a
186 violation of subsection (1) by a person who has a blood-alcohol
187 level or breath-alcohol level of 0.15 or higher.

188 (5) In addition to any sentence or fine, the court shall
189 place any offender convicted of violating this section on
190 monthly reporting probation and shall require attendance at a
191 substance abuse course specified by the court; and the agency
192 conducting the course may refer the offender to an authorized
193 service provider for substance abuse evaluation and treatment,
194 in addition to any sentence or fine imposed under this section.
195 The offender shall assume reasonable costs for such education,
196 evaluation, and treatment, with completion of all such
197 education, evaluation, and treatment being a condition of
198 reporting probation. Treatment resulting from a psychosocial
199 evaluation may not be waived without a supporting psychosocial
200 evaluation conducted by an agency appointed by the court and

201 with access to the original evaluation. The offender shall bear
202 the cost of this procedure. The term "substance abuse" means the
203 abuse of alcohol or any substance named or described in
204 Schedules I-V of s. 893.03.

205 (6) With respect to any person convicted of a violation of
206 subsection (1), regardless of any other penalty imposed:

207 (a) For the first conviction, the court shall place the
208 defendant on probation for a period not to exceed 1 year and, as
209 a condition of such probation, shall order the defendant to
210 participate in public service or a community work project for a
211 minimum of 50 hours. The court must also, as a condition of
212 probation, order the impoundment or immobilization of the vessel
213 that was operated by or in the actual control of the defendant
214 or any one vehicle registered in the defendant's name at the
215 time of impoundment or immobilization, for a period of 10 days
216 or for the unexpired term of any lease or rental agreement that
217 expires within 10 days. The impoundment or immobilization must
218 not occur concurrently with the incarceration of the defendant.
219 The impoundment or immobilization order may be dismissed in
220 accordance with paragraph (e) or paragraph (f). The total period
221 of probation and incarceration may not exceed 1 year.

222 (b) For the second conviction for an offense that occurs
223 within a period of 5 years after the date of a prior conviction
224 for violation of this section, the court shall order
225 imprisonment for not less than 10 days. The court must also, as

226 a condition of probation, order the impoundment or
227 immobilization of the vessel that was operated by or in the
228 actual control of the defendant or any one vehicle registered in
229 the defendant's name at the time of impoundment or
230 immobilization, for a period of 30 days or for the unexpired
231 term of any lease or rental agreement that expires within 30
232 days. The impoundment or immobilization must not occur
233 concurrently with the incarceration of the defendant. The
234 impoundment or immobilization order may be dismissed in
235 accordance with paragraph (e) or paragraph (f). At least 48
236 hours of confinement must be consecutive.

237 (c) For the third or subsequent conviction for an offense
238 that occurs within a period of 10 years after the date of a
239 prior conviction for violation of this section, the court shall
240 order imprisonment for not less than 30 days. The court must
241 also, as a condition of probation, order the impoundment or
242 immobilization of the vessel that was operated by or in the
243 actual control of the defendant or any one vehicle registered in
244 the defendant's name at the time of impoundment or
245 immobilization, for a period of 90 days or for the unexpired
246 term of any lease or rental agreement that expires within 90
247 days. The impoundment or immobilization must not occur
248 concurrently with the incarceration of the defendant. The
249 impoundment or immobilization order may be dismissed in
250 accordance with paragraph (e) or paragraph (f). At least 48

251 hours of confinement must be consecutive.

252 (d) The court must at the time of sentencing the defendant
253 issue an order for the impoundment or immobilization of a
254 vessel. Within 7 business days after the date that the court
255 issues the order of impoundment, and once again 30 business days
256 before the actual impoundment or immobilization of the vessel,
257 the clerk of the court must send notice by certified mail,
258 return receipt requested, to the registered owner of each
259 vessel, if the registered owner is a person other than the
260 defendant, and to each person of record claiming a lien against
261 the vessel.

262 (e) A person who owns but was not operating the vessel
263 when the offense occurred may submit to the court a police
264 report indicating that the vessel was stolen at the time of the
265 offense or documentation of having purchased the vessel after
266 the offense was committed from an entity other than the
267 defendant or the defendant's agent. If the court finds that the
268 vessel was stolen or that the sale was not made to circumvent
269 the order and allow the defendant continued access to the
270 vessel, the order must be dismissed and the owner of the vessel
271 will incur no costs. If the court denies the request to dismiss
272 the order of impoundment or immobilization, the petitioner may
273 request an evidentiary hearing.

274 (f) A person who owns but was not operating the vessel
275 when the offense occurred, and whose vessel was stolen or who

276 purchased the vessel after the offense was committed directly
277 from the defendant or the defendant's agent, may request an
278 evidentiary hearing to determine whether the impoundment or
279 immobilization should occur. If the court finds that either the
280 vessel was stolen or the purchase was made without knowledge of
281 the offense, that the purchaser had no relationship to the
282 defendant other than through the transaction, and that such
283 purchase would not circumvent the order and allow the defendant
284 continued access to the vessel, the order must be dismissed and
285 the owner of the vessel will incur no costs.

286 (g) All costs and fees for the impoundment or
287 immobilization, including the cost of notification, must be paid
288 by the owner of the vessel or, if the vessel is leased or
289 rented, by the person leasing or renting the vessel, unless the
290 impoundment or immobilization order is dismissed.

291 (h) The person who owns a vessel that is impounded or
292 immobilized under this paragraph, or a person who has a lien of
293 record against such a vessel and who has not requested a review
294 of the impoundment pursuant to paragraph (e) or paragraph (f),
295 may, within 10 days after the date that person has knowledge of
296 the location of the vessel, file a complaint in the county in
297 which the owner resides to determine whether the vessel was
298 wrongfully taken or withheld from the owner or lienholder. Upon
299 the filing of a complaint, the owner or lienholder may have the
300 vessel released by posting with the court a bond or other

301 adequate security equal to the amount of the costs and fees for
302 impoundment or immobilization, including towing or storage, to
303 ensure the payment of the costs and fees if the owner or
304 lienholder does not prevail. When the bond is posted and the fee
305 is paid as set forth in s. 28.24, the clerk of the court shall
306 issue a certificate releasing the vessel. At the time of
307 release, after reasonable inspection, the owner or lienholder
308 must give a receipt to the towing or storage company indicating
309 any loss or damage to the vessel or to the contents of the
310 vessel.

311 (i) A defendant, in the court's discretion, may be
312 required to serve all or any portion of a term of imprisonment
313 to which the defendant has been sentenced pursuant to this
314 section in a residential alcoholism treatment program or a
315 residential drug abuse treatment program. Any time spent in such
316 a program must be credited by the court toward the term of
317 imprisonment.

318
319 For the purposes of this section, any conviction for a violation
320 of s. 316.193, a previous conviction for the violation of former
321 s. 316.1931, former s. 860.01, or former s. 316.028, or a
322 previous conviction outside this state for driving under the
323 influence, driving while intoxicated, driving with an unlawful
324 blood-alcohol level, driving with an unlawful breath-alcohol
325 level, or any other similar alcohol-related or drug-related

326 traffic offense, is also considered a previous conviction for
327 violation of this section.

328 (7) A conviction under this section does not bar any civil
329 suit for damages against the person so convicted.

330 (8) A person who is arrested for a violation of this
331 section may not be released from custody:

332 (a) Until the person is no longer under the influence of
333 alcoholic beverages, any chemical substance set forth in s.
334 877.111, or any substance controlled under chapter 893 and
335 affected to the extent that his or her normal faculties are
336 impaired;

337 (b) Until the person's blood-alcohol level or breath-
338 alcohol level is less than 0.05; or

339 (c) Until 8 hours have elapsed from the time the person
340 was arrested.

341 (9) Notwithstanding any other provision of this section,
342 for any person convicted of a violation of subsection (1), in
343 addition to the fines set forth in subsections (2) and (4), an
344 additional fine of \$60 shall be assessed and collected in the
345 same manner as the fines set forth in subsections (2) and (4).
346 All fines collected under this subsection shall be remitted by
347 the clerk of the court to the Department of Revenue for deposit
348 into the Brain and Spinal Cord Injury Program Trust Fund and
349 used for the purposes set forth in s. 381.79, after 5 percent is
350 deducted therefrom by the clerk of the court for administrative

351 costs.

352 (10) It is the intent of the Legislature to encourage
 353 boaters to have a "designated driver" who does not consume
 354 alcoholic beverages.

355 Section 4. Section 782.072, Florida Statutes, is amended
 356 to read:

357 782.072 Vessel homicide.—

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

359 (a) "Vessel homicide" means ~~is~~ the killing of a human
 360 being or an unborn child by the operation of a vessel as defined
 361 in s. 327.02 by another in a reckless manner likely to cause the
 362 death of, or great bodily harm to, another.

363 (b) "Unborn child" has the same meaning as in s.
 364 775.021(5)(e).

365 (2) Vessel homicide is:

366 (a) ~~(1)~~ A felony of the second degree, punishable as
 367 provided in s. 775.082, s. 775.083, or s. 775.084.

368 (b) ~~(2)~~ A felony of the first degree, punishable as
 369 provided in s. 775.082, s. 775.083, or s. 775.084, if:

370 1. ~~(a)~~ At the time of the accident, the person knew, or
 371 should have known, that the accident occurred; and

372 2. ~~(b)~~ The person failed to give information and render aid
 373 as required by s. 327.30(1).

374
 375 Paragraph (b) ~~This subsection~~ does not require that the person

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376 | knew that the accident resulted in injury or death.

377 | Section 5. This act shall take effect July 1, 2021.