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LEGISLATIVE ACTION

Senate

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House

Floor: 1/AD/2R

02/10/2022 03:20 PM

Senator Hutson moved the following:

Senate Amendment (with title amendment)

Delete lines 191 - 428

and insert:

repopulation of such habitats.

a. Each lead land managing agency shall:

(I) In consultation with the Fish and Wildlife Conservation Commission, consider in the management plan for all state lands under its management which are greater in size than 40 contiguous acres the feasibility of using a portion of the property as a gopher tortoise recipient site. If, during



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12 consultation with the commission, the lead land managing agency
13 determines that the recipient site management is not in conflict
14 with the primary management objects of the parcel, the
15 management plan must contain a component or section prepared by
16 a qualified wildlife biologist which assesses the feasibility of
17 managing the site as a recipient site for gopher tortoises,
18 consistent with the rules of the commission.

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

21 b. State lands may be used as gopher tortoise recipient
22 sites only if there are fewer than three permitted private
23 recipient sites available for gopher tortoise relocations which
24 are actively accepting gopher tortoise relocations. The
25 commission shall work with each state land management agency to
26 identify at least nine sites on state lands which are feasible
27 for use as gopher tortoise recipient sites. The lead land
28 management agencies of such identified sites must submit a
29 gopher tortoise recipient site permit application to the
30 commission by December 31, 2022, and the sites must be permitted
31 and ready to accept relocated gopher tortoises by July 1, 2023.
32 If the commission does not approve or deny a complete gopher
33 tortoise recipient site permit application within 45 days after
34 receipt of the application, the application shall be deemed
35 approved.

36 c. ~~In addition,~~ The lead land managing agency of such state
37 lands may use fees received from public or private entities for
38 projects to offset adverse impacts to imperiled species or their
39 habitat in order to restore, enhance, manage, repopulate, or
40 acquire land and to implement land management plans developed



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41 under s. 253.034 or a land management prospectus developed and
42 implemented under this chapter. Such fees shall be deposited
43 into a foundation or fund created by each land management agency
44 under s. 379.223, s. 589.012, or s. 259.032(9)(c), to be used
45 solely to restore, manage, enhance, repopulate, or acquire
46 imperiled species habitat.

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

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

67 Section 2. Paragraphs (a) and (c) of subsection (1) of
68 section 327.352, Florida Statutes, are amended to read:

69 327.352 Tests for alcohol, chemical substances, or



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70 controlled substances; implied consent; refusal.-

71 (1)(a)1. The Legislature declares that the operation of a
72 vessel is a privilege that must be exercised in a reasonable
73 manner. In order to protect the public health and safety, it is
74 essential that a lawful and effective means of reducing the
75 incidence of boating while impaired or intoxicated be
76 established. Therefore, a person who accepts the privilege
77 extended by the laws of this state of operating a vessel within
78 this state is, by operating such vessel, deemed to have given
79 his or her consent to submit to an approved chemical test or
80 physical test including, but not limited to, an infrared light
81 test of his or her breath for the purpose of determining the
82 alcoholic content of his or her blood or breath if the person is
83 lawfully arrested for any offense allegedly committed while the
84 person was operating a vessel while under the influence of
85 alcoholic beverages. The chemical or physical breath test must
86 be incidental to a lawful arrest and administered at the request
87 of a law enforcement officer who has reasonable cause to believe
88 such person was operating the vessel within this state while
89 under the influence of alcoholic beverages. The administration
90 of a breath test does not preclude the administration of another
91 type of test. The person shall be told that his or her failure
92 to submit to any lawful test of his or her breath under this
93 chapter will result in a civil penalty of \$500, and ~~shall also~~
94 ~~be told~~ that if he or she refuses to submit to a lawful test of
95 his or her breath and he or she has been previously fined under
96 s. 327.35215 or ~~has previously had~~ his or her driving privilege
97 has been previously driver license suspended for refusal to
98 submit to any lawful test of his or her breath, urine, or blood,



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99 he or she commits a misdemeanor of the first degree, punishable
100 as provided in s. 775.082 or s. 775.083, in addition to any
101 other penalties provided by law. The refusal to submit to a
102 chemical or physical breath test upon the request of a law
103 enforcement officer as provided in this section is admissible
104 into evidence in any criminal proceeding.

105 2. A person who accepts the privilege extended by the laws
106 of this state of operating a vessel within this state is, by
107 operating such vessel, deemed to have given his or her consent
108 to submit to a urine test for the purpose of detecting the
109 presence of chemical substances as set forth in s. 877.111 or
110 controlled substances if the person is lawfully arrested for any
111 offense allegedly committed while the person was operating a
112 vessel while under the influence of chemical substances or
113 controlled substances. The urine test must be incidental to a
114 lawful arrest and administered at a detention facility or any
115 other facility, mobile or otherwise, which is equipped to
116 administer such tests at the request of a law enforcement
117 officer who has reasonable cause to believe such person was
118 operating a vessel within this state while under the influence
119 of chemical substances or controlled substances. The urine test
120 must ~~shall~~ be administered at a detention facility or any other
121 facility, mobile or otherwise, which is equipped to administer
122 such test in a reasonable manner that will ensure the accuracy
123 of the specimen and maintain the privacy of the individual
124 involved. The administration of a urine test does not preclude
125 the administration of another type of test. The person shall be
126 told that his or her failure to submit to any lawful test of his
127 or her urine under this chapter will result in a civil penalty



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128 of \$500, and ~~shall also be told~~ that if he or she refuses to
129 submit to a lawful test of his or her urine and he or she has
130 been previously fined under s. 327.35215 or ~~has previously had~~
131 his or her driving privilege has been previously ~~driver license~~
132 suspended for refusal to submit to any lawful test of his or her
133 breath, urine, or blood, he or she commits a misdemeanor of the
134 first degree, punishable as provided in s. 775.082 or s.
135 775.083, in addition to any other penalties provided by law. The
136 refusal to submit to a urine test upon the request of a law
137 enforcement officer as provided in this section is admissible
138 into evidence in any criminal proceeding.

139 (c) A person who accepts the privilege extended by the laws
140 of this state of operating a vessel within this state is, by
141 operating such vessel, deemed to have given his or her consent
142 to submit to an approved blood test for the purpose of
143 determining the alcoholic content of the blood or a blood test
144 for the purpose of determining the presence of chemical
145 substances or controlled substances as provided in this section
146 if there is reasonable cause to believe the person was operating
147 a vessel while under the influence of alcoholic beverages or
148 chemical or controlled substances and the person appears for
149 treatment at a hospital, clinic, or other medical facility and
150 the administration of a breath or urine test is impractical or
151 impossible. As used in this paragraph, the term "other medical
152 facility" includes an ambulance or other medical emergency
153 vehicle. The blood test must ~~shall~~ be performed in a reasonable
154 manner. A person who is incapable of refusal by reason of
155 unconsciousness or other mental or physical condition is deemed
156 not to have withdrawn his or her consent to such test. A person



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157 who is capable of refusal shall be told that his or her failure
158 to submit to such a blood test will result in a civil penalty of
159 \$500. The refusal to submit to a blood test upon the request of
160 a law enforcement officer is ~~shall be~~ admissible in evidence in
161 any criminal proceeding.

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

164 327.35215 Penalty for failure to submit to test.—

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

169 (2) When a person refuses to submit to a blood test, breath
170 test, or urine test pursuant to s. 327.352, a law enforcement
171 officer ~~who is~~ authorized to make arrests for violations of this
172 chapter shall file with the clerk of the court, on a form
173 provided by the commission ~~department~~, a certified statement
174 that probable cause existed to arrest the person for a violation
175 of s. 327.35 and that the person refused to submit to a test as
176 required by s. 327.352. Along with the statement, the officer
177 shall ~~must~~ also submit a sworn statement on a form provided by
178 the commission ~~department~~ that the person has been advised of
179 both the penalties for failure to submit to the blood, breath,
180 or urine test and the procedure for requesting a hearing.

181 Section 4. Present paragraph (c) of subsection (1) of
182 section 327.371, Florida Statutes, is redesignated as paragraph
183 (d), and a new paragraph (c) is added to that subsection, to
184 read:

185 327.371 Human-powered vessels regulated.—



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

189 (c) When participating in practices or competitions for
190 interscholastic, intercollegiate, intramural, or club rowing
191 teams affiliated with an educational institution identified in
192 s. 1000.21, s. 1002.01(2), s. 1003.01(2), s. 1005.02(4), or s.
193 1005.03(1)(d), if the adjacent area outside of the marked
194 channel is not suitable for such practice or competition. The
195 teams must use their best efforts to make use of the adjacent
196 area outside of the marked channel. The commission must be
197 notified in writing of the details of any such competition, and
198 the notification must include, but need not be limited to, the
199 date, time, and location of the competition.

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

202 327.4107 Vessels at risk of becoming derelict on waters of
203 this state.—

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

208 (f) The vessel is tied to an unlawful or unpermitted
209 structure or mooring.

210 Section 6. Paragraph (b) of subsection (1) of section
211 327.46, Florida Statutes, is amended to read:

212 327.46 Boating-restricted areas.—

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



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215 established on the waters of this state for any purpose
216 necessary to protect the safety of the public if such
217 restrictions are necessary based on boating accidents,
218 visibility, hazardous currents or water levels, vessel traffic
219 congestion, or other navigational hazards or to protect
220 seagrasses on privately owned submerged lands.

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

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

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

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

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

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



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- 244 a. Within 300 feet of any bridge fender system.
- 245 b. Within 300 feet of any bridge span presenting a vertical
246 clearance of less than 25 feet or a horizontal clearance of less
247 than 100 feet.
- 248 c. On a creek, stream, canal, or similar linear waterway if
249 the waterway is less than 75 feet in width from shoreline to
250 shoreline.
- 251 d. On a lake or pond of less than 10 acres in total surface
252 area.
- 253 e. Within the boundaries of a permitted public mooring
254 field and a buffer around the mooring field of up to 100 feet.
- 255 3. An ordinance establishing a vessel-exclusion zone if the
256 area is:
- 257 a. Designated as a public bathing beach or swim area,
258 except that such areas may not be created on waters that include
259 any portion of the Florida Intracoastal Waterway or that are
260 within 100 feet of the marked channel of the Florida
261 Intracoastal Waterway.

262
263 ===== T I T L E A M E N D M E N T =====

264 And the title is amended as follows:

265 Delete lines 10 - 30

266 and insert:

267 implementation of management strategies; requiring the
268 commission to work with the land management agencies
269 to identify a specified number of sites; providing
270 gopher tortoise recipient site permit application
271 requirements; specifying permit timeframe
272 requirements; amending ss. 327.352 and 327.35215,



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273 F.S.; revising the notices a person must be given for
274 failure to submit to certain tests for alcohol,
275 chemical substances, or controlled substances; making
276 technical changes; amending s. 327.371, F.S.;
277 authorizing individuals, when participating in certain
278 athletic team practices or competitions, to operate a
279 human-powered vessel within the marked channel of the
280 Florida Intracoastal Waterway under certain
281 circumstances; requiring the commission to be notified
282 of any such competition; providing notice
283 requirements; amending s. 327.4107, F.S.; revising the
284 vessel conditions that an officer of the commission or
285 a law enforcement agency may use to determine that a
286 vessel is at risk of becoming derelict; amending s.
287 327.46, F.S.; prohibiting municipalities and counties
288 from designating certain waters adjacent to designated
289 public bathing beaches or swim areas as vessel
290 exclusion zones; repealing s. 376.15, F.S., relating
291 to