

1986

Session Law 86-035

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1986	Session Law No. 86-35	LOF Cite I, i, 102-103	#pp
Prime Bill# SB.203	Sponsor	Comp./Sim. Bills SB. 532, HB. 441	
JLMC Hist. Leq. Cites	Senate pp.#s	House pp.#s	#pp
Committee of Ref.	Senate <i>Nat. Resources</i>	House <i>Nat. Resources (subcommittee)</i>	Previous versions? X

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
H	Nat Res	1986	Meeting file (4 24.86)	19/1535	25
			(see note) (4 2.86 1p)	19/1536	0
				"	4
S	Nat Res	1986	Meeting file	18/1574	NE
"			Bill file # 3	"	??
	ELCA	1986	Meeting file SF ... -A	18/1514	17
			Qualification file 5/22 = 2 (10 34)	18/1522	2

Senate/House Journals

Page	?	Date	#pp	Page	?	Date	#pp
SJ 100	X	April 15, 1986					
HJ 327	V	May 2, 1986					

Tape Recordings

H/S	Floor	Committee/subcommittee	Date	# Tapes	Location Cite

Other Documentation

Record series title, folder title, etc.	Location Cite	#pp

By Senator Johnson

This publication was produced at a
rate cost of 1.5 cents per page
for the information of members of the
legislature and the public.

1 A bill to be entitled
2 An act relating to the regulation of scuba
3 diving; providing definitions; creating the
4 Board of Scuba Instruction and providing for
5 its composition; providing exemptions;
6 providing for the regulation of scuba
7 instructors and scuba instructor's assistants;
8 establishing qualifications and providing for
9 the examination and licensure of scuba
10 instructors; providing for the renewal of
11 licenses; providing for the adoption of rules;
12 establishing qualifications for scuba
13 instructor's assistants; requiring registration
14 of such assistants; establishing guidelines for
15 scuba instructor training schools and providing
16 for the licensure of such schools; requiring
17 reports; establishing prohibited acts;
18 providing grounds for the discipline of
19 licensees and registrants; providing penalties;
20 providing an exemption from examination for
21 certain persons; providing standards for
22 compressed air used in recreational sport
23 diving; providing for the testing of compressed
24 air; providing exemptions from such testing;
25 requiring certification for certain air
26 stations providing compressed air; providing
27 penalties; amending s. 20.30, F.S.; providing
28 conforming language; amending s. 861.065, F.S.;
29 requiring persons operating vessels within a
30 certain distance of a divers-down flag to take
31 certain actions; providing penalties; providing

1 for future repeal and review; providing an
2 effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. As used in this act:

7 (1) "Board" means the Board of Scuba Instruction.

8 (2) "Department" means the Department of Professional
9 Regulation.

10 (3) "Scuba" means self-contained underwater breathing
11 apparatus.

12 (4) "Scuba instruction" means the giving of
13 information, instruction, or guidelines directly or
14 indirectly, for remuneration, to any person or group of
15 persons on the use of self-contained underwater breathing
16 apparatus methods, techniques, procedures, standards for
17 recreation or sport diving.

18 (5) "Scuba instructor" means a person who gives scuba
19 instruction.

20 (6) "Scuba instructor training school" means any
21 person, firm or corporation who trains a person to give scuba
22 instruction.

23 Section 2. This act does not apply to:

24 (1) Persons offering scuba instruction to members of
25 the United States Armed Forces if such instruction is required
26 by the respective branch involved.

27 (2) Persons offering scuba instruction while employed
28 by the Department of Education, the State University System,
29 the public school system, or programs offered by such
30 governmental entities, if such instruction is a required part
31 of a curriculum.

1 Section 3. No person other than a person licensed
2 pursuant to this act shall give scuba instruction or use the
3 title of scuba instructor.

4 Section 4. (1) There is created within the Department
5 of Professional Regulation the Board of Scuba Instruction,
6 consisting of seven members who shall be appointed by the
7 governor, subject to confirmation by the Senate.

8 (2) Five members of the board shall be, and shall have
9 been practicing scuba instructors in this state for 5 years or
10 more. Two members shall be residents of the state who are not
11 presently licensed scuba instructors. No person shall be
12 appointed to the board who is or has been for a period of 3
13 years, connected with the manufacture or wholesale
14 distribution of scuba equipment or supplies, or who is
15 financially connected with a scuba instructor training school.

16 (3) By November 1, 1986, the Governor shall appoint
17 seven persons to the board as follows:

18 (a) Two members for terms of 1 year each.

19 (b) Two members for terms of 2 years each.

20 (c) Two members for terms of 4 years each.

21 (d) A chairman for a term of 4 years.

22 (4) As the terms of the members expire, the Governor
23 shall appoint successors for terms of 4 years; and such
24 members shall serve until their successors are appointed and
25 qualified. The governor may remove any member for cause.

26 (5) No person shall be appointed to serve more than
27 two consecutive terms. Any vacancy shall be filled by
28 appointment by the governor for the unexpired portion of the
29 term.

1 (6) Board members shall serve without compensation,
2 but shall receive per diem and mileage allowances as provided
3 in s. 112.061, Florida Statutes.

4 (7) All provisions of chapter 455, Florida Statutes,
5 relating to the activities of the board shall apply.

6 (8) The board may adopt rules to carry out the
7 provisions of this act.

8 Section 5. (1) Any person desiring to be licensed as
9 a scuba instructor shall apply to the department to take the
10 licensure examination. The department shall examine each
11 applicant whom the board certifies has:

12 (a) Completed an application form and remitted an
13 examination fee not to exceed \$50 as set by the board.

14 (b) Submitted proof, satisfactory to the department,
15 that he is not less than 20 years of age and has graduated
16 from a scuba instructor training school which is licensed or
17 approved by the department.

18 (c) Has passed a physical examination conducted by a
19 licensed physician. The requirements of such physical
20 examination shall be set by the board.

21 (2) The department shall conduct examinations of
22 applicants not less than 4 times each year. The examination
23 shall include a practical demonstration and a written test.

24 (3) An applicant who passes the required examination,
25 achieving a grade of not less than 75 percent on both the
26 practical and the written parts and who meets the requirements
27 of this act shall be entitled to be licensed as a scuba
28 instructor with rights as defined by law.

29 Section 6. (1) The department shall renew a license
30 upon receipt of the renewal application, a certificate of
31 passage of a physical examination conducted within 60 days

1 before the date of the renewal application, and the required
2 fee, which shall be set by the board, not to exceed \$50 per
3 year.

4 (2) The department shall adopt rules establishing a
5 procedure for the biennial renewal of licenses.

6 (3) Any license which is not renewed at the end of the
7 biennium prescribed by the department shall automatically
8 revert to an inactive status. Such license may be reactivated
9 only if the licensee meets the other qualifications for
10 reactivation in section 7.

11 (4) Sixty days prior to the end of the biennium and
12 automatic reversion of a license to inactive status, the
13 department shall mail a notice of renewal and possible
14 reversion to the last known address of the licensee.

15 (5) The licensee shall have on file with the
16 department the address of his primary place of business within
17 the state prior to engaging in that business. Before changing
18 the address of his primary place of business, whether or not
19 within this state, the licensee shall notify the department of
20 his new primary place of business.

21 Section 7. (1) A license which has become inactive
22 may be reactivated upon application to the department. The
23 board shall prescribe by rule continuing education
24 requirements as a condition of reactivating a license. The
25 continuing education requirements for reactivating a license
26 shall not exceed 12 classroom hours. Any license which has
27 been inactive for more than 4 years shall automatically expire
28 if the licensee has not made application for renewal of such
29 license. Once a license expires, it becomes void without any
30 further action by the board or department. Ninety days prior
31

1 to expiration of a license, the department shall give notice
2 to the licensee.

3 (2) The board shall adopt rules relating to licenses
4 which have become inactive and for the renewal of inactive
5 licenses. The board shall prescribe by rule a fee not to
6 exceed \$50 for the activation or renewal of an inactive
7 license.

8 Section 8. (1) Any person may be registered as a
9 scuba instructor's assistant who is 18 years of age or more
10 and pays the required registration fee.

11 (2) The department shall issue on a biennial basis to
12 each eligible applicant a registration card as a scuba
13 instructor's assistant. The registration card shall state the
14 name of the person registered, the period of such
15 registration, and the name and address of the scuba instructor
16 with whom such person is registered to work.

17 (3) If a scuba instructor's assistant leaves the
18 employ of, or ceases to work with the scuba instructor named
19 on his registration card, the registration shall automatically
20 be revoked 30 days after the date of his departure unless he
21 makes an application and pays a transfer fee to the department
22 to be registered with a new scuba instructor. Any such
23 application for transfer shall automatically be granted by the
24 department for the unexpired term of the registration. A
25 scuba instructor shall immediately notify the department of
26 the departure of a scuba instructor's assistant who is
27 registered to work for him.

28 (4) A scuba instructor's assistant shall not practice
29 scuba instruction except to give oral lectures and written
30 instructions under the supervision of a licensed scuba
31 instructor.

1 (5) Violation of subsections (3) or (4) shall
2 constitute grounds for revocation of the scuba instructor's
3 license and of his assistant's registration.

4 Section 9. (1) Any person who is 20 years of age or
5 more and who has held a valid scuba instructor's license in
6 another state or country for one year or more shall be
7 eligible, upon payment of the required fee, to take a written
8 and performance examination to determine his fitness to be
9 licensed as a scuba instructor.

10 (2) A person licensed in another state may be refused
11 examination under this section if the other state does not
12 extend the same reciprocity to licensees of this state. The
13 board shall adopt rules governing such applicants' eligibility
14 for examination.

15 Section 10. (1) No scuba instructor training school
16 may operate without a license issued by the department.
17 However, nothing in this act shall be construed to prevent
18 certification by the Department of Education of scuba
19 instructor training programs within the public school system
20 or to prevent government operation of any other scuba
21 instructor training in this state.

22 (2) The board shall adopt rules governing the
23 licensure and operation of schools, required and optional
24 curricula, instructors, facilities, safety and sanitary
25 requirements, financial responsibility to students and the
26 public, insurance coverage, contractual agreements, the
27 license application and granting process, and school closings.

28 (3) Any person who is not otherwise exempt from the
29 requirements of this section and who desires to operate a
30 scuba instructor training school shall submit to the
31 department an application accompanied by:

1 (a) A surety bond issued by the applicant as a
2 principal and by a surety company as surety in an amount to be
3 set by rule by the board, to be no less than \$10,000 or nor
4 more than \$25,000, payable to the state. Such bond shall
5 continue in force for the lifetime of the school.

6 (b) A statement of the ownership structure of the
7 proposed school, including names and addresses of
8 stockholders, partnership arrangements or corporate status, if
9 applicable.

10 (c) A statement of the proposed curriculum, number of
11 instructors, safety precautions taken, equipment to be used,
12 and liability insurance coverage obtained.

13 (d) A statement covering provisions for financial
14 responsibility and contractual agreements.

15 (e) A description of the proposed system for handling
16 student records and transcripts.

17 (f) Any other relevant information requested by the
18 board.

19 (g) An application fee determined by the board.

20 (4) Upon receiving the application, the department may
21 investigate the proposed school.

22 (5) If an applicant fails to meet the requirements of
23 this section, the department shall deny the application in
24 writing and shall list the specific requirements not met. No
25 applicant denied licensure because of failure to meet such
26 requirements shall be precluded from reapplying for licensure.

27 (6) If the department determines that the proposed
28 school may reasonably be expected to meet the requirements of
29 this section, the department shall grant the license upon such
30 conditions as it determines, and upon payment of the required
31 fee.

1 (7) No license may be transferred from the name of the
2 original licensee to another, and may not be transferred from
3 one location to another except upon approval by the
4 department, which approval shall not be unreasonably withheld.

5 (8) License renewal shall be accomplished pursuant to
6 rules adopted by the board. The board may adopt rules
7 governing delinquent renewal of licenses and may impose
8 penalties for delinquent renewal.

9 (9) The board may adopt rules governing the periodic
10 inspection of schools.

11 (10) Any school which closes shall transfer all
12 student records to the department, which shall keep such
13 records on file for at least 3 years.

14 (11) The board shall adopt rules governing student
15 enrollment at schools, including the establishment of student
16 enrollment permit fees. Each school shall send to the
17 department a monthly statement of each student's total hours
18 of study. Such records shall be kept on file by the
19 department for at least 5 years.

20 (12) Each school shall display, in a conspicuous
21 place, the school's licenses and each instructor's license.

22 Section 11. (1) It is unlawful for any person to:

23 (a) Engage in scuba instruction without a valid
24 license as a scuba instructor or scuba instructor's assistant.

25 (b) Engage in willful or repeated violations of this
26 act or of any rule adopted by the board.

27 (c) Hire or employ any person to give scuba
28 instruction unless such person holds a valid license or
29 registration.
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31

1 (d) Obtain or attempt to obtain a license for money,
2 or any other thing of value, other than the required fee or by
3 fraudulent means.

4 (e) Own or operate a scuba instructor training school
5 which is not licensed under provisions of this act.

6 (2) Any person who violates the provisions of this
7 section is liable for a civil penalty, not to exceed \$500, as
8 determined by the board.

9 Section 12. (1) The board may revoke or suspend any
10 license or registration, issued pursuant to this act, or may
11 reprimand, censure, deny subsequent licensure or registration
12 of, or otherwise discipline any licensee or registrant for:

13 (a) Gross malpractice or gross incompetency in the
14 practice of scuba instruction or scuba instructor training.

15 (b) Commission of any offense proscribed by this act.

16 (c) Practice by a person having a physical disability
17 which prevents him from safely engaging in scuba instruction
18 or scuba instructor training.

19 (2) The board shall adopt rules relating to
20 disciplinary actions against licensees under this section.

21 (3) The board shall maintain records of disciplinary
22 proceedings against licensees and registrants.

23 Section 13. Any person who on September 30, 1986 is
24 engaged in giving scuba instruction or is engaged in operating
25 a scuba instructor training school and who applies for
26 licensure and pays the fees on or before November 30, 1986
27 shall be approved for licensure by the board.

28 Section 14. (1) The Department of Health and
29 Rehabilitative Services with the assistance of the board shall
30 adopt rules establishing maximum allowable levels for
31 contaminants in compressed air used for recreational sport

1 diving in this state. Such rules shall consider the levels of
2 contaminants allowed by the United States Navy and the
3 Occupational Safety and Health Act of 1970 for
4 nondecompression air diving.

5 (2) This section does not apply to:

6 (a) Any person providing compressed air for his own
7 use without remuneration.

8 (b) Any governmental entity using a governmentally
9 owned compressed air source for work related to the
10 governmental entity.

11 (c) Foreign registered vessels upon which a compressor
12 is used to provide compressed air for work related to the
13 vessel operation.

14 (3) Any air station operating within this state shall
15 submit to the Department of Health and Rehabilitative
16 Services, in containers provided by the department, a sample
17 of compressed air and schedule of fees charged for air used in
18 recreational sport diving. Such samples shall be submitted at
19 intervals to be determined by the Department of Health and
20 Rehabilitative Services.

21 (4) The Department of Health and Rehabilitative
22 Services shall test air samples for contaminant levels and
23 shall issue to the air station a certificate attesting to the
24 qualities and quantities of the air sample provided. If the
25 sample fails to pass the test the department shall notify the
26 air station of the test results.

27 (5) No air station shall provide to any person
28 compressed air for recreational sport diving without a current
29 certificate, posted in a conspicuous place on the premises,
30 certifying that such air complies with the air quality
31 standards established pursuant to this act.

1 (6) No person shall offer compressed air for
2 recreational sport diving without a current certificate
3 evidencing compliance with the established levels for
4 contaminants.

5 (7) The Department of Health and Rehabilitative
6 Services shall establish fees adequate to cover it's costs of
7 testing air samples, such fees not to exceed \$50 per year per
8 air station.

9 (8) It is unlawful to:

10 (a) Operate an air station without a current air
11 contaminant certificate.

12 (b) Operate an air station after receipt of notice
13 that its compressed air exceeds acceptable levels of
14 contaminants.

15 (9) Any person who violates this section is liable for
16 a civil penalty, not to exceed \$500, determined by the
17 Department of Health and Rehabilitative Services, and all
18 damage resulting from such violation.

19 Section 15. Paragraph (y) of subsection (4) of section
20 20.30, Florida Statutes, is redesignated as paragraph (z) and
21 a new paragraph (y) is added to said section to read:

22 20.30 Department of Professional Regulation.--There is
23 created a Department of Professional Regulation.

24 (4) The following boards are established within the
25 Department of Professional Regulation, Division of
26 Professions:

27 (y) Board of Scuba Instruction.

28 Section 16. Subsection (5) of section 861.065, Florida
29 Statutes, is renumbered as subsection (6) and a new subsection
30 (5) is added to said section to read:

1 861.065 Divers; definitions; divers-down flag
2 required; penalty.--

3 (5) Any person operating a vessel within 300 feet of a
4 divers-down flag shall slow to a no-wake speed and exercise
5 extreme caution.

6 ~~(6)†5†~~ Any violation of this section shall be a
7 misdemeanor of the second degree punishable as provided by s.
8 775.082 or s. 775.083.

9 Section 17. Sections 1 through 14 of this act are
10 repealed on October 1, 1996 and shall be reviewed by the
11 Legislature pursuant to the Regulatory Sunset Act prior to
12 that date.

13 Section 18. This act shall take effect October 1,
14 1986.

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SENATE SUMMARY

Provides for the regulation and licensure of scuba instructors, scuba instructor's assistants, and scuba instructors schools. Establishes the Board of Scuba Instruction within the Department of Professional Regulation and provides powers and duties for it. Provides for the testing and certification of certain air stations providing compressed air for recreational sport diving. Provides penalties. Requires persons operating vessels within a certain distance of a divers-down flag to use a certain standard of care. Provides penalties for not doing so. See bill for details.

By Senators Stuart and W.D. Childers

This publication was produced at an estimated cost of 1.5 cents per page for the information of members of the Legislature and the public.

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A bill to be entitled

An act relating to boat registration and safety; amending s. 327.72, F.S.; specifying noncriminal violations; providing procedures and penalties; providing an effective date.

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

Section 1. Section 327.72, Florida Statutes, is amended to read:

327.72 Penalties.--

(1) Any violation of the provisions of s. 327.33(2), s. 327.37, s. 327.44, s. 327.46, s. 327.50, or s. 327.65 is a noncriminal violation, as defined in s. 775.08(3), punishable by a fine of \$25.

(2) Unless otherwise provided in this chapter or in subsection (1), any person failing to comply with the provisions of this chapter ~~or chapter 328 not specified in subsection (1) or not paying the fine specified in subsection (1) within 10 days, except as otherwise provided in this chapter or chapter 328,~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person cited for a noncriminal violation listed in subsection (1) may:

(a) Post a bond, which shall be equal in amount to the \$25 civil penalty established in subsection (1), except that in the case of a violation of s. 327.25(9), the amount of such bond shall be \$15 in addition to the registration fee for the vessel as set forth in s. 327.25(1); or

By the Committee on Natural Resources & Conservation and Senator Stuart

A bill to be entitled

An act relating to boat registration and safety; amending s. 327.50, F.S.; providing safety regulations; amending s. 327.72, F.S.; specifying noncriminal violations; providing procedures and penalties; providing an effective date.

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

Section 1. Subsection (1) of section 327.50, Florida Statutes, is amended to read:

327.50 Vessel safety regulations; equipment and lighting requirements.--

(1) Every vessel on the waters of this state shall carry safety equipment and conform to uniform lighting requirements in accordance with current United States Coast Guard safety and lighting requirements and federal regulations, ~~as set forth in Titles 33 and 46, Code of Federal Regulations~~; unless expressly exempt by state law.

Section 2. Section 327.72, Florida Statutes, is amended to read:

327.72 Penalties.--

(1) Any violation of the provisions of s. 327.33(2), s. 327.37, s. 327.44, s. 327.46, s. 327.48, s. 327.50, or s. 327.65 is a noncriminal violation, as defined in s. 775.08(3), punishable by a fine of \$25.

(2) Unless otherwise provided in this chapter or in subsection (1), any person failing to comply with the provisions of this chapter ~~or chapter 328 not specified in subsection (1) or not paying the fine specified in subsection~~

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~~11) within 10 days, except as otherwise provided in this~~
 2 ~~chapter or chapter 328,~~ is guilty of a misdemeanor of the
 3 second degree, punishable as provided in s. 775.082, s.
 4 775.083, or s. 775.084.

5 (3) Any person cited for a noncriminal violation
 6 listed in subsection (1) may:

7 (a) Post a bond, which shall be equal in amount to the
 8 \$25 civil penalty established in subsection (1), except that
 9 in the case of a violation of s. 327.25(9), the amount of such
 10 bond shall be \$15 in addition to the registration fee for the
 11 vessel as set forth in s. 327.25(1); or

12 (b) Sign and accept a citation indicating a promise to
 13 appear or pay the civil penalty prescribed in subsection (1).

14 (4) Any person who willfully refuses to post a bond or
 15 sign and accept a citation shall be guilty of a misdemeanor of
 16 the second degree, punishable as provided in s. 775.082 or s.
 17 775.083.

18 Section 3. This act shall take effect upon becoming a
 19 law.

22 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
 23 COMMITTEE SUBSTITUTE FOR SENATE BILL 203

25 The bill adds a new section to amend s. 327.50(1)
 26 replacing the specific citation for federal safety and
 27 lighting requirements in the Code of Federal
 Regulations with generic language. This does not
 change the meaning of s. 327.50(1).

28 The bill now includes s. 327.48 as an enumerated
 29 provision where violation will result in a non-criminal
 30 penalty. The provision requires a person directing a
 regatta, tournament, marine parade, or exhibition to
 secure a permit and notify the appropriate authorities.

By Representative D L Jones

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A bill to be entitled
An act relating to navigable waters, amending
s. 861.065, F S.; prohibiting divers from
obstructing navigable waters with divers-down
flags; providing an effective date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 861.065, Florida Statutes, is amended to read:

861.065 Divers; definitions, divers-down flag required, obstruction of navigable waters; penalty.--

(1) "Diver" means any person who is wholly or partially submerged in the waters of the state and is equipped with a face mask and snorkel or underwater breathing apparatus

(2) "Underwater breathing apparatus" shall mean any apparatus, whether self-contained or connected to a distant source of air or other gas, whereby a person wholly, or partially submerged in water is enabled to obtain or reuse air or any other gas or gases for breathing without returning to the surface of the water.

(3) "Divers-down flag" shall mean a flag that is either square or rectangular, to approximately 4 units high by 5 units long, with a 2-unit diagonal stripe. The divers-down flag shall have a white diagonal stripe on a red background. The stripe shall begin at the top staff-side of the flag and extend diagonally to the opposite lower corner. The flag shall be free-flying and shall be lowered when all divers are aboard or ashore. The minimum size shall be 12 by 12 inches.

1 (4) all divers shall prominently display a divers-down 1.26
 2 flag in the area in which the diving occurs, other than when 1.27
 3 diving in an area customarily used for swimming only. 1.28
 4 However, no diver or group of divers shall display one or more 1.29
 5 diver-down flags so as to obstruct the navigation of boats or 1.30
 6 other watercraft on any river, inlet or navigation channel. 1.31
 7 (5) Any violation of this section shall be a 1.32
 8 misdemeanor of the second degree punishable as provided by s. 1.33
 9 775.082 or s. 775.083.

10 Section 2. This act shall take effect October 1, 1986. 1.34
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12 *****
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14 HOUSE SUMMARY

15 Prohibits divers from obstructing the navigation of boats
 16 or other watercraft with diver-down flags.
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By Committee on Natural Resources and Representative D. L. Jones

A bill to be entitled

2 An act relating to divers; amending s. 861.065,
3 F.S.; prohibiting divers from obstructing
4 certain waters with divers-down flags;
5 providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

This publication was produced at an average cost of 1.5 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

9 Section 1. Section 861.065, Florida Statutes, is
10 amended to read:

11 861.065 Divers; definitions; divers-down flag
12 required; obstruction of certain waters; penalty.--

13 (1) "Diver" means any person who is wholly or
14 partially submerged in the waters of the state and is equipped
15 with a face mask and snorkel or underwater breathing
16 apparatus.

17 (2) "Underwater breathing apparatus" shall mean any
18 apparatus, whether self-contained or connected to a distant
19 source of air or other gas, whereby a person wholly or
20 partially submerged in water is enabled to obtain or reuse air
21 or any other gas or gases for breathing without returning to
22 the surface of the water.

23 (3) "Divers-down flag" shall mean a flag that is
24 either square or rectangular, to approximately 4 units high by
25 5 units long, with a 1-unit diagonal stripe. The divers-down
26 flag shall have a white diagonal stripe on a red background.
27 The stripe shall begin at the top staff-side of the flag and
28 extend diagonally to the opposite lower corner. The flag
29 shall be free-flying and shall be lowered when all divers are
30 aboard or ashore. The minimum size shall be 12 by 12 inches.
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1	(4) All divers shall prominently display a divers-down	1.26
2	flag in the area in which the diving occurs, other than when	1.27
3	diving in an area customarily used for swimming only.	1.28
4	<u>(5) No diver or group of divers shall display one or</u>	1:1us
5	<u>more divers-down flags, on a river, inlet, or navigation</u>	1.30
6	<u>channel, except in case of emergency, in a manner which shall</u>	
7	<u>unreasonably or unnecessarily constitute a navigational hazard</u>	1.31
8	<u>or interfere with a vessel. Displaying one or more divers-</u>	1.32
9	<u>down flags under bridges or in or adjacent to heavily traveled</u>	
10	<u>channels shall constitute interference if unreasonable under</u>	1.33
11	<u>the prevailing circumstances.</u>	1.34
12	<u>(6) Divers shall make reasonable efforts to stay</u>	1:1us
13	<u>within 100 feet of the divers-down flag, on rivers, inlets and</u>	1.36
14	<u>navigation channels.</u>	
15	(7) (5) Any <u>willful</u> violation of this section shall be	1.38
16	a misdemeanor of the second degree punishable as provided by	1.39
17	s. 775.082 or s. 775.083.	
18	Section 2. This act shall take effect October 1, 1986.	1.40
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STORAGE NAME: 86SRHB441

Date: March 19, 1986

Revised: _____

Final: _____

COPY

HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
STAFF ANALYSIS

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BILL #: HB 441

RELATING TO: Navigable Waters

SPONSOR(S): Representative Dennis Jones

EFFECTIVE DATE: October 1, 1986

COMPANION BILL(S): _____

OTHER COMMITTEES OF REFERENCE: (1) _____

(2) _____

I. SUMMARY:

This bill would prohibit skin or scuba divers from obstructing the navigation of boats or other watercraft on any river, inlet or navigation channel.

Divers must currently display a flag or flags in the area in which the diving occurs, other than areas customarily used for swimming.

II. ECONOMIC IMPACT:

A. Public:

Since the term "obstructing" is not defined, the passage of this bill may significantly impact sport diving in Florida. This is based upon the fact that divers and boaters use the same public waters and any restriction on one user group over another will have a negative impact.

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

The State Comprehensive Plan is not applicable to the provisions of this bill.

IV. COMMENTS:

The Florida Marine Patrol presently has an enforcement policy requiring boaters to maintain 50 feet from diver down flags in channels and 300 feet in open water.

Date: March 19, 1986


The Game and Fresh Water Fish Commission's Division of Law Enforcement has no policy concerning boaters maintaining a safe distance from diver down flags.

Presently, boaters usually slow to a no wake speed and look for air bubbles near a diver down flag. With no provisions in the law requiring a specified distance be maintained from a diver down flag, it may become arbitrary as to the definition of what exactly constitutes obstructing a river, channel or navigable waterway.

The amendment to the lead-off language in section 861.065 adding the term "navigable" should be replaced with the term "certain waters". The term navigable pertains to the establishment of waters suitable for commerce as well as establishing the state's sovereignty. Its use makes the bill too broad in scope.

V. AMENDMENTS:

None

VI. PREPARED BY: Dick Wilhelm 

VII. STAFF DIRECTOR: G. Alan Whidby 

Date: March 19, 1986
Revised: April 29, 1986
Final: _____

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HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
STAFF ANALYSIS

BILL #: CS/HB 441

RELATING TO: Navigable Waters

SPONSOR(S): Representative Dennis Jones

EFFECTIVE DATE: October 1, 1986

COMPANION BILL(S): _____

OTHER COMMITTEES OF REFERENCE: (1) _____

(2) _____

I. SUMMARY:

This bill requires divers or groups of divers to display one or more diver down flags in a river, inlet or navigational channel in a manner which shall unreasonably or unnecessarily constitute a navigational hazard or interfere with a vessel.

The bill provides a definition of "interference" as well as requiring divers to make a reasonable effort to stay within 100 feet of a diver down flag. Penalties are provided.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

The State Comprehensive Plan is not applicable to the provisions of this bill.


IV. COMMENTS:


The Florida Marine Patrol presently has an enforcement policy requiring boaters to maintain 50 feet from diver down flags in channels and 300 feet in open water.

The Game and Fresh Water Fish Commission's Division of Law Enforcement has no policy concerning boaters maintaining a safe distance from diver down flags.

V. AMENDMENTS:

None

VI. PREPARED BY: Dick Wilhelm 

VII. STAFF DIRECTOR: G. Alan Whidby 

STORAGE NAME: 86SRHB441

Date: March 19, 1986

Revised: _____

Final: July 15, 1986

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HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
STAFF ANALYSIS

BILL #: HB 441

RELATING TO: Navigable Waters

SPONSOR(S): Representative Dennis Jones

EFFECTIVE DATE: October 1, 1986

COMPANION BILL(S): _____

OTHER COMMITTEES OF REFERENCE: (1) _____

(2) _____

I. SUMMARY:

This bill would prohibit skin or scuba divers from obstructing the navigation of boats or other watercraft on any river, inlet or navigation channel.

Divers must currently display a flag or flags in the area in which the diving occurs, other than areas customarily used for swimming.

II. ECONOMIC IMPACT:

A. Public:

Since the term "obstructing" is not defined, the passage of this bill may significantly impact sport diving in Florida. This is based upon the fact that divers and boaters use the same public waters and any restriction on one user group over another will have a negative impact.

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

The State Comprehensive Plan is not applicable to the provisions of this bill.

IV. COMMENTS:

The Florida Marine Patrol presently has an enforcement policy requiring boaters to maintain 50 feet from diver down flags in channels and 300 feet in open water.

Date: July 15, 1986

The Game and Fresh Water Fish Commission's Division of Law Enforcement has no policy concerning boaters maintaining a safe distance from diver down flags.

Presently, boaters usually slow to a no wake speed and look for air bubbles near a diver down flag. With no provisions in the law requiring a specified distance be maintained from a diver down flag, it may become arbitrary as to the definition of what exactly constitutes obstructing a river, channel or navigable waterway.

The amendment to the lead-off language in section 861.065 adding the term "navigable" should be replaced with the term "certain waters". The term navigable pertains to the establishment of waters suitable for commerce as well as establishing the state's sovereignty. Its use makes the bill too broad in scope.

V. AMENDMENTS:

None

VI. PREPARED BY: Dick Wilhelm *DW*

VII. STAFF DIRECTOR: G. Alan Whidby *GAW*

ADDENDUM

HB 441 died on the House calendar. Identical CS for SB 203 passed and signed into law on May 27, 1986.

SUBCOMMITTEE REPORT/INFORMATION RECORD

House of Representatives

File with Parent Committee

To Chairman, Committee on Natural Resources

Subcommittee on Water & Living Resources

Date of meeting 4/23/86

Time 10:30 - 12:00

Place 16 HOB

Bill No. HB 441

FINAL ACTION: FAVORABLE
 FAVORABLE WITH 3 AMENDMENTS
 FAVORABLE WITH SUBSTITUTE
 UNFAVORABLE

VOTE:

YEA	MEMBER	NAY
X	Rep. Armstrong	
	Rep. Clements	
X	Rep. Evans-Jones	
X	Rep. Mitchell	
X	Rep. Smith	

YEA	MEMBER	NAY

Total
Yeas 4

Total
Nays 0

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Charles R. Smith
Subcommittee Chairman
Charles R. Smith

SUBCOMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during consideration of this bill:

<u>Name</u>	<u>Representing</u>	<u>Address</u>

(If additional persons, enter on reverse side and check here)

NOTE: Please indicate by an "x" any State employee appearing at the request of Subcommittee Chairman.

Received by Parent Committee

Date 4/23/86

Received by *Nancy Murphy*

HOUSE COMMITTEE AMENDMENT (in computer)

Amendment No. 1 (committee use only) Bill No. HB 441

Senate Action

House Action

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If amendment is text of another bill insert:
Bill No. Draft No.

The Committee on Natural Resources offered the following amendment:

Amendment

On page...1..., line..12...,
strike "navigable"

and insert: certain

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Orig.
Journal
Third
Fourth

*not adopted
4/24/86*

Code: h0441/nr01
Date:
Time:

Amendment No. 2 (committee use only) Bill No. HB 441

Senate Action

House Action

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If amendment is text of another bill insert:
Bill No. _____ Draft No. _____

The Committee on Natural Resources offered the following amendment:

Amendment

On page..2...., lines.4-9...
strike all of said lines

and insert: (5) No diver or group of divers shall display one or more diver-down flags, on a river, inlet or navigation channel, except in case of emergency, in a manner which shall unreasonably or unnecessarily constitute a navigational hazard ^{or} of interfere with a vessel. Displaying one or more diver-down flags under bridges or in or adjacent to heavily traveled channels shall constitute interference if unreasonable under the prevailing circumstances.

(6) Divers shall make reasonable efforts to stay within 100 feet of the diver-down flag, on rivers, inlets and navigation channels.

(7) Any willful violation of this section shall be a misdemeanor of the second degree punishable as provided by section 775.082 and or section 775.083.

Handwritten notes and stamps on the right side of the page, including a date stamp "MAY 19 1983" and the handwritten text "HB, 441".

Adopted

Orig.
Journal
Third
Fourth

Code: h0441/nr02
Date:
Time: