

Ch. 99-245 LAWS OF FLORIDA

(2) PROTECTION OF MANATEES OR SEA COWS.—

(a) This subsection shall be known and may be cited as the “Florida Manatee Sanctuary Act.”

(b) The State of Florida is hereby declared to be a refuge and sanctuary for the manatee, the “Florida state marine mammal.”

(c) Whenever the Fish and Wildlife Conservation Commission department is satisfied that the interest of science will be subserved, and that the application for a permit to possess a manatee or sea cow (*Trichechus manatus*) is for a scientific or propagational purpose and should be granted, and after concurrence by the United States Department of the Interior, the commission Division of Marine Resources may grant to any person making such application a special permit to possess a manatee or sea cow, which permit shall specify the exact number which shall be maintained in captivity.

(d) Except as may be authorized by the terms of a valid state permit issued pursuant to paragraph (c) or by the terms of a valid federal permit, it is unlawful for any person at any time, by any means, or in any manner intentionally or negligently to annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee.

(e) Any gun, net, trap, spear, harpoon, boat of any kind, aircraft, automobile of any kind, other motorized vehicle, chemical, explosive, electrical equipment, scuba or other subaquatic gear, or other instrument, device, or apparatus of any kind or description used in violation of any provision of paragraph (d) may be forfeited upon conviction. The foregoing provisions relating to seizure and forfeiture of vehicles, vessels, equipment, or supplies do not apply when such vehicles, vessels, equipment, or supplies are owned by, or titled in the name of, innocent parties; and such provisions shall not vitiate any valid lien, retain title contract, or chattel mortgage on such vehicles, vessels, equipment, or supplies if such lien, retain title contract, or chattel mortgage is property of public record at the time of the seizure.

(f) In order to protect manatees or sea cows from harmful collisions with motorboats or from harassment, the Fish and Wildlife Conservation Commission Department of Environmental Protection shall adopt rules under chapter 120 regarding the expansion of existing, or construction of new, marine facilities and mooring or docking slips, by the addition or construction of five or more powerboat slips, and regulating the operation and speed of motorboat traffic, only where manatee sightings are frequent and it can be generally assumed, based on available scientific information, that they inhabit these areas on a regular or continuous basis:

1. In Lee County: the entire Orange River, including the Tice Florida Power and Light Corporation discharge canal and adjoining waters of the Caloosahatchee River within 1 mile of the confluence of the Orange and Caloosahatchee Rivers.

2. In Brevard County: those portions of the Indian River within three fourths of a mile of the Orlando Utilities Commission Delespine power plant effluent and the Florida Power and Light Frontenac power plant effluents.

3. In Indian River County: the discharge canals of the Vero Beach Municipal Power Plant and connecting waters within 1<sup>1</sup>/<sub>4</sub> miles thereof.

4. In St. Lucie County: the discharge of the Henry D. King Municipal Electric Station and connecting waters within 1 mile thereof.

5. In Palm Beach County: the discharges of the Florida Power and Light Riviera Beach power plant and connecting waters within 1<sup>1</sup>/<sub>2</sub> miles thereof.

6. In Broward County: the discharge canal of the Florida Power and Light Port Everglades power plant and connecting waters within 1<sup>1</sup>/<sub>2</sub> miles thereof and the discharge canal of the Florida Power and Light Fort Lauderdale power plant and connecting waters within 2 miles thereof. For purposes of ensuring the physical safety of boaters in a sometimes turbulent area, the area from the easternmost edge of the authorized navigation project of the intracoastal waterway east through the Port Everglades Inlet is excluded from this regulatory zone.

7. In Citrus County: headwaters of the Crystal River, commonly referred to as King's Bay, and the Homosassa River.

8. In Volusia County: Blue Springs Run and connecting waters of the St. Johns River within 1 mile of the confluence of Blue Springs and the St. Johns River; and Thompson Creek, Strickland Creek, Dodson Creek, and the Tomoka River.

9. In Hillsborough County: that portion of the Alafia River from the main shipping channel in Tampa Bay to U.S. Highway 41.

10. In Sarasota County: the Venice Inlet and connecting waters within 1 mile thereof, including Lyons Bay, Donna Bay, Roberts Bay, and Hatchett Creek, excluding the waters of the intracoastal waterway and the right-of-way bordering the centerline of the intracoastal waterway.

11. In Collier County: within the Port of Islands, within section 9, township 52 south, range 28 east, and certain unsurveyed lands, all east-west canals and the north-south canals to the southerly extent of the intersecting east-west canals which lie southerly of the centerline of U.S. Highway 41.

12. In Manatee County: that portion of the Manatee River east of the west line of section 17, range 19 east, township 34 south; the Braden River south of the north line and east of the west line of section 29, range 18 east, township 34 south; Terra Ceia Bay and River, east of the west line of sections 26 and 35 of range 17 east, township 33 south, and east of the west line of section 2, range 17 east, township 34 south; and Bishop Harbor east of the west line of section 13, range 17 east, township 33 south.

13. In Dade County: those portions of Black Creek lying south and east of the water control dam, including all boat basins and connecting canals within 1 mile of the dam.

(g) The Fish and Wildlife Conservation Commission Department of Environmental Protection shall adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic only where manatee sightings

are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis within that portion of the Indian River between the St. Lucie Inlet in Martin County and the Jupiter Inlet in Palm Beach County. In addition, the commission department shall adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis within the Loxahatchee River in Palm Beach and Martin Counties, including the north and southwest forks thereof. A limited lane or corridor providing for reasonable motorboat speeds may be identified and designated within this area.

(h) The commission department shall adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis within the Withlacoochee River and its tributaries in Citrus and Levy Counties. The specific areas to be regulated include the Withlacoochee River and the U.S. 19 bridge westward to a line between U.S. Coast Guard markers number 33 and number 34 at the mouth of the river, including all side channels and coves along that portion of the river; Bennets' Creek from its beginning to its confluence with the Withlacoochee River; Bird's Creek from its beginning to its confluence with the Withlacoochee River; and the two dredged canal systems on the north side of the Withlacoochee River southwest of Yankeetown. A limited lane or corridor providing for reasonable motorboat speeds may be identified and designated within this area.

(i) If any new power plant is constructed or other source of warm water discharge is discovered within the state which attracts a concentration of manatees or sea cows, the Fish and Wildlife Conservation Commission Department of Environmental Protection is directed to adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic within the area of such discharge. Such rules shall designate a zone which is sufficient in size, and which shall remain in effect for a sufficient period of time, to protect the manatees or sea cows.

(j) It is the intent of the Legislature through adoption of this paragraph to allow the Fish and Wildlife Conservation Commission Department of Environmental Protection to post and regulate boat speeds only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis. It is not the intent of the Legislature to permit the commission department to post and regulate boat speeds generally in the above-described inlets, bays, rivers, creeks, thereby unduly interfering with the rights of fishers, boaters, and water skiers using the areas for recreational and commercial purposes. Limited lanes or corridors providing for reasonable motorboat speeds may be identified and designated within these areas.

(k) The commission department shall adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic all year around

within Turkey Creek and its tributaries and within Manatee Cove in Brevard County. The specific areas to be regulated consist of:

1. A body of water which starts at Melbourne-Tillman Drainage District structure MS-1, section 35, township 28 south, range 37 east, running east to include all natural waters and tributaries of Turkey Creek, section 26, township 28 south, range 37 east, to the confluence of Turkey Creek and the Indian River, section 24, township 28 south, range 37 east, including all lagoon waters of the Indian River bordered on the west by Palm Bay Point, the north by Castaway Point, the east by the four immediate spoil islands, and the south by Cape Malabar, thence northward along the shoreline of the Indian River to Palm Bay Point.

2. A triangle-shaped body of water forming a cove (commonly referred to as Manatee Cove) on the east side of the Banana River, with northern boundaries beginning and running parallel to the east-west cement bulkhead located 870 feet south of SR 520 Relief Bridge in Cocoa Beach and with western boundaries running in line with the City of Cocoa Beach channel markers 121 and 127 and all waters east of these boundaries in section 34, township 24 south, range 37 east; the center coordinates of this cove are 28°20'14" north, 80°35'17" west.

(l) The Legislature recognizes that, while the manatee or sea cow is designated a marine mammal by federal law, many of the warm water wintering areas are in freshwater springs and rivers which are under the primary state law enforcement jurisdiction of the Florida Game and Fresh Water Fish Commission. The law enforcement provisions of this section shall be carried out jointly by the department and the commission, with the department serving as the lead agency. The specific areas of jurisdictional responsibility are to be established between the department and the commission by interagency agreement.

(m) The commission department shall promulgate regulations pursuant to chapter 120 relating to the operation and speed of motor boat traffic in port waters with due regard to the safety requirements of such traffic and the navigational hazards related to the movement of commercial vessels.

(n) The commission department may designate by rule adopted pursuant to chapter 120 other portions of state waters where manatees are frequently sighted and it can be assumed that manatees inhabit such waters periodically or continuously. Upon designation of such waters, the commission department shall adopt rules pursuant to chapter 120 to regulate motorboat speed and operation which are necessary to protect manatees from harmful collisions with motorboats and from harassment. The commission department may adopt rules pursuant to chapter 120 to protect manatee habitat, such as seagrass beds, within such waters from destruction by boats or other human activity. Such rules shall not protect noxious aquatic plants subject to control under s. 369.20.

(o) The commission department may designate, by rule adopted pursuant to chapter 120, limited areas as a safe haven for manatees to rest, feed, reproduce, give birth, or nurse undisturbed by human activity. Access

by motor boat to private residences, boat houses, and boat docks through these areas by residents, and their authorized guests, who must cross one of these areas to have water access to their property is permitted when the motorboat is operated at idle speed, no wake.

(p) Except in the marked navigation channel of the Florida Intracoastal Waterway as defined in s. 327.02 and the area within 100 feet of such channel, a local government may regulate, by ordinance, motorboat speed and operation on waters within its jurisdiction where manatees are frequently sighted and can be generally assumed to inhabit periodically or continuously. However, such an ordinance may not take effect until it has been reviewed and approved by the commission department. If the commission department and a local government disagree on the provisions of an ordinance, a local manatee protection committee must be formed to review the technical data of the commission department and the United States Fish and Wildlife Service, and to resolve conflicts regarding the ordinance. The manatee protection committee must be comprised of:

1. A representative of the commission department;
2. A representative of the county;
3. A representative of the United States Fish and Wildlife Service;
4. A representative of a local marine-related business;
5. A representative of the Save the Manatee Club;
6. A local fisher;
7. An affected property owner; and
8. A representative of the Florida Marine Patrol.

If local and state regulations are established for the same area, the more restrictive regulation shall prevail.

(q) The commission department shall evaluate the need for use of fenders to prevent crushing of manatees between vessels (100¢ or larger) and bulkheads or wharves in counties where manatees have been crushed by such vessels. For areas in counties where evidence indicates that manatees have been crushed between vessels and bulkheads or wharves, the commission department shall:

1. Adopt rules pursuant to chapter 120 requiring use of fenders for construction of future bulkheads or wharves; and
2. Implement a plan and time schedule to require retrofitting of existing bulkheads or wharves consistent with port bulkhead or wharf repair or replacement schedules.

The fenders shall provide sufficient standoff from the bulkhead or wharf under maximum operational compression to ensure that manatees cannot be crushed between the vessel and the bulkhead or wharf.

(r) Any violation of a restricted area established by this subsection, or established by rule pursuant to chapter 120 or ordinance pursuant to this subsection, shall be considered a violation of the boating laws of this state and shall be charged on a uniform boating citation as provided in s. 327.74, except as otherwise provided in paragraph (s). Any person who refuses to post a bond or accept and sign a uniform boating citation shall, as provided

in s. 327.73(3), be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(s) Except as otherwise provided in this paragraph, any person violating the provisions of this subsection or any rule or ordinance adopted pursuant to this subsection shall be guilty of a misdemeanor, punishable as provided in s. 370.021(2)(a) or (b).

1. Any person operating a vessel in excess of a posted speed limit shall be guilty of a civil infraction, punishable as provided in s. 327.73, except as provided in subparagraph 2.

2. This paragraph does not apply to persons violating restrictions governing “No Entry” zones or “Motorboat Prohibited” zones, who, if convicted, shall be guilty of a misdemeanor, punishable as provided in s. 370.021(2)(a) or (b), or, if such violation demonstrates blatant or willful action, may be found guilty of harassment as described in paragraph (d).