

28.19 RECKLESS [OPERATION OF A VESSEL] [MANIPULATION]

§ 327.33(1), Fla. Stat.

To prove the crime of Reckless [Operation of a Vessel] [Manipulation], the State must prove the following three elements beyond a reasonable doubt:

- 1. (Defendant) [operated a vessel] [manipulated any [water skis] [aquaplane or similar device]].**
- 2. (Defendant) did so with a willful or wanton disregard for the safety of persons or property.**
- 3. (Defendant) [operated the vessel] [manipulated the [water skis] [aquaplane or similar device]] at a speed or in a manner as to [endanger or that was likely to endanger life or limb] [or] [injure a person] [or] [damage the property of a person].**

Give as applicable.

§ 327.02, Fla. Stat.

“Operate” means to be in charge of, in command of, or in actual physical control of a vessel upon the waters of this state, to exercise control over or to have responsibility for a vessel’s navigation or safety while the vessel is underway upon the waters of this state, or to control or steer a vessel being towed by another vessel upon the waters of the state.

§ 327.02, Fla. Stat.; *State v. Davis*, 110 So. 3d 27 (Fla. 2d DCA 2013).

“Vessel” means a boat and includes every description of watercraft, barge, and airboat, other than a seaplane, on the water used or capable of being used as a means of transportation on water.

W.E.B. v. State, 553 So. 2d 323 (Fla. 1st DCA 1989).

“Willful” means intentionally, knowingly, and purposely.

“Wanton” means with a conscious and intentional indifference to consequences and with knowledge that damage is likely to be done to persons or property.

§ 327.02, Fla. Stat.

“Person” means an individual, partnership, firm, corporation, association, or other entity.

Give if applicable and insert additional instructions from § 327.331, Fla. Stat. as necessary.

A vessel other than a law-enforcement or rescue vessel that approaches within [100 feet of a divers-down warning device on a river, inlet, or navigation channel] [or] [300 feet of a divers-down warning device on waters other than a river, inlet, or navigation channel] must proceed no faster than necessary to maintain headway and steerageway. A violation of this law constitutes Reckless

Operation of a Vessel.

Lesser Included Offense

RECKLESS [OPERATION OF A VESSEL] [MANIPULATION] — 327.33(1)			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Culpable Negligence	784.05(1)	8.9

Comment

This instruction was adopted in 2018 [238 So. 3d 192].