Enforcement of ordinance on waterway

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Subject:
Enforcement of ordinance on waterway

MUNICIPALITIES--MAY ENFORCE MUNICIPAL ORDINANCES ON WATERWAYS WITHIN THEIR JURISDICTION

To: Roger H. Wilson, Representative, 60th District, Seminole

Prepared by: Andrew W. Lindsey, Assistant Attorney General

QUESTION:

What authority do municipal officers have to enforce municipal ordinances dealing with water safety?

SUMMARY:

Municipal officers may enforce restricted areas and local ordinances on waterways within their jurisdiction, as provided in Ch. 371, F. S. Said enforcement may be by fresh pursuit in accordance with s. 901.25, F. S.

There are two methods whereby a municipality or a county may restrict traffic on the waterways within their jurisdiction.

Section 371.522, F. S., provides a method whereby the governing body of the county or municipality may establish a restricted area by petitioning the Division of Marine Resources of the Department of Natural Resources. Said division, after an investigation, may then establish the requested restricted area when it determines a safety hazard exists. Section 371.67, F. S., then provides for enforcement of the above set out restricted area.

Section 371.59, F. S., provides that ordinances or local laws may be enacted to regulate the operation of any vessel upon the waterways within the jurisdiction of the body enacting either the ordinance or the local law so long as said ordinance or local law is not in conflict with provisions of Ch. 371, F. S. Section 371.59 further provides ordinances or local laws may not attempt to regulate traffic on the Florida Intracoastal Waterway.

Section 371.68, F. S., provides the penalty for violation of Ch. 371, F. S., said penalty being a second degree misdemeanor, which would authorize law enforcement officers to make arrest, as provided in s. 901.15(1), F. S., which states:

"901.15 When arrest by officer without warrant is lawful. -- A peace officer may arrest a person

without a warrant when:
(1) The person has committed a felony or misdemeanor or violated a municipal ordinance in the presence of the officer. Arrest for the commission of a misdemeanor or violation of a municipal ordinance shall be made immediately or in fresh pursuit."

Section 901.25, F. S., further provides for a municipal officer to make a fresh pursuit of a person under certain prescribed conditions, when it states:

"901.25 Municipal officer, arrest outside corporate limits in fresh pursuit. -- A police officer of a municipality, when necessary to make an arrest, may make a fresh pursuit of a person from within the municipality to any point in the county in which the municipality is located when the person pursued has violated a city ordinance or committed a misdemeanor within the municipality, or the officer reasonably believes that the person has committed or is committing a felony."