

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 25, 1998 Revised: _____

Subject: Boating Safety

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Gee</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill redefines “personal watercraft,” classifies all personal watercraft as Class A-2 vessels and revises the distribution and use of registration fees for personal watercraft. It revises requirements for operation of a personal watercraft relating to authorized flotation devices, times of operation, and maneuvers constituting reckless operation. The bill raises the minimum age for such operation from 14 to 16, provides a grandfather clause, and requires certain adult supervision of operators age 16 or 17. It prohibits leasing, hiring, or renting personal watercraft to anyone who is under age 18 and who has not received approved safety instruction and requires all vessel operators to carry certain photographic identification. The bill also removes a livery’s immunity from liability for certain accidents or injuries occurring during operation of a personal watercraft, and requires certain insurance coverage.

This bill substantially amends sections 327.02, 327.25, 327.28, 327.39, 327.395, 327.54, and reenacts section 327.73(1)(p) and (s), Florida Statutes.

II. Present Situation:

Pursuant to s. 327.25, F.S., personal watercraft are currently classified for registration purposes by length. If less than 12 feet in length, they are Class A-1, for which the fee is \$3.50. If longer than 12 feet but less than 16 feet, they are Class A-2, for which the fee is \$10.50.

Registration fees from all vessels, including personal watercraft, are deposited into the Marine Resources Conservation Trust Fund (MRCTF) of the Department of Environmental Protection (DEP) but are transferred out of the fund for a variety of purposes, including but not limited to, law enforcement; seafood quality control; channel marking and construction of boat ramps;

aquatic weed control; manatee protection, recovery, rescue, rehabilitation, and release; and marine mammal protection and recovery.

The DEP has been advised by the U. S. Coast Guard that Florida's requirements for the placement of registration numbers and decals on antique vessels are inconsistent with federal regulations. Failure to conform to federal law could result in losing \$3.9 million in federal funding.

Pursuant to s. 327.39, F.S., persons riding on personal watercraft must wear a type I, type II, type III, or type V personal flotation device approved by the U. S. Coast Guard; these types include inflatable devices. The marine patrol reports that a manual inflation device provides no protection to a wearer suddenly thrown into the water unless the wearer remains conscious and is physically able to inflate the device. The normal splash and spray of personal watercraft operations, potentially causing a boating accident, can unexpectedly activate an automatically inflated device.

This section also prohibits the operation of personal watercraft between 30 minutes after sunset to 30 minutes before sunrise. During these two 30-minute periods, boaters may operate personal watercraft, but the personal watercraft must be equipped with lights that conform to the requirements of the federal navigation rules. No manufacturer produces a stock personal watercraft that comes equipped from the factory with such lights.

Existing law requires that personal watercraft be operated in a reasonable and prudent manner and specifies several maneuvers that are prohibited as unsafe and constitute reckless operation of a vessel, although other dangerous maneuvers are commonly practiced.

The present minimum age for personal watercraft operation is 14. Most personal watercraft manufacturers warn in their owners' manuals that operation by persons under 16 years of age is dangerous and that inexperienced operators should be closely supervised by an experienced adult. The minimum age to rent a personal watercraft is 16. However, as it is not required that all vessel operators carry identification while on the water, there is no way to readily determine the age of a personal watercraft operator, unless the operator has a boating safety identification card.

Although personal watercraft comprised only 9.3 percent of the state's total vessel registrations in 1997, they were involved in approximately 36 percent of the state's accidents. While rented personal watercraft are involved in a disproportionately large number of boating accidents, there is no requirement that liveries renting these vessels carry insurance. Moreover, if a livery complies with certain minimal statutory requirements under s. 327.54, F.S., it is exonerated from liability.

III. Effect of Proposed Changes:

Section 1. Section 327.02, F.S., is amended to redefine "personal watercraft" as being less than 16 feet in length, rather than a small Class A-1 or A-2 vessel, and delete a reference to vessel operation while being towed behind the vessel.

Section 2. Section 327.25, F.S., is amended to reclassify personal watercraft, for purposes of registration, in Class A-2 for which the fee is \$10.50. Also, vessel registration numbers on antique vessels must be displayed as provided in ss. 327.11 and 327.14, F.S., and decals identifying vessels as antique must be displayed as provided in s. 327.11, F.S.

Section 3. Section 327.28, F.S., is amended to provide that, notwithstanding any other provision of s. 327.28(1), F.S., and except as provided in paragraphs (a) and (b), all funds collected from the registration of personal watercraft through the Department of Highway Safety and Motor Vehicles and the tax collectors of the state shall be deposited in equal amounts into the Marine Resources Conservation Trust Fund and the State Game Trust Fund. All fees from the registration of personal watercraft may only be appropriated for enforcement of boating laws, rules, and ordinances and for boating safety education and training.

Section 4. Section 327.39, F.S., is amended to prohibit the use of inflatable personal flotation devices while operating or riding a personal watercraft. This section also prohibits the operation of personal watercraft between sunset and sunrise, except for those engaged in fire or emergency rescue services.

The bill identifies dangerous personal watercraft maneuvers that constitute reckless operation of a vessel. These include, but are not limited to:

- Weaving through congested vessel traffic.
- Jumping the wake of another vessel unreasonably or unnecessarily close to such other vessel or when visibility around such other vessel is obstructed.
- Becoming airborne or completely leaving the water while crossing the wake of another vessel within 100 feet of the vessel creating the wake.
- Operating at greater than slow/no wake speed within 100 feet of an anchored or moored vessel, shoreline, dock, swim float, marked swim area including swimmers, or pier.
- Operating contrary to navigation rules.

This section also revises certain minimum age requirements. The minimum age for operation of a personal watercraft is raised from 14 to 16 and the minimum age for operation of a leased, hired, or rented personal watercraft is 18. However, a person aged 16 or 17 may operate a leased, hired, or rented personal watercraft if there is in the immediate vicinity of the operation a person who is 18 years of age or older, who is attendant to the operation of the personal watercraft, and who is responsible for any violation that occurs during the operation.

This section requires that all persons operating a vessel on the waters of this state carry and have available for inspection photographic identification indicating the operator's date of birth. As used in this section and in s. 327.395, F.S., "photographic identification" means, and is limited to: an

unexpired and otherwise valid driver license; a state identification card issued by any state of the United States or its territories or the District of Columbia, showing a photograph and signature of the person to whom it is issued; a United States Government Resident Alien Identification Card; a valid passport; a United States Military identification card; or a student identification card issued by an accredited educational institution as defined in s. 196.012, F.S.

The section provides that it is unlawful for the owner or a person having charge over or control of a personal watercraft to knowingly permit the vessel to be operated by a person under 16 years old. It is also unlawful for the owner of any leased, hired, or rented personal watercraft or any person having charge over or control of a leased, hired, or rented personal watercraft to authorize or knowingly permit the watercraft to be operated by:

- Any person under 18 years of age in violation of this section; except that the owner or person in charge or control may allow a person 16 or 17 years of age to operate a leased, hired, or rented personal watercraft if there is in the immediate vicinity of the operation a person who is 18 years of age or older, who is attendant to the operation of the personal watercraft, and who is responsible for any violation that occurs during the operation; or
- Any person who has not received instruction in the safe handling of personal watercraft, in compliance with standards established by the DEP, and signed a written statement attesting to the same.

Section 5. This section provides a grandfather clause: A person who is 14 or 15 years of age on the effective date of this act and has completed the state-required boating safety course in order to operate a personal watercraft may operate a personal watercraft on the waters of the state, notwithstanding the provisions of s. 327.39, F.S., as amended by this act.

Section 6. Section 327.395, F.S., is amended to provide a cross-reference.

Section 7. Section 327.54, F.S., is amended to specify that the pre-rental instruction required to be provided by a livery to a renter of a vessel equipped with a motor of 10 horsepower or greater includes but is not limited to:

- Operational characteristics of the vessel.
- Laws and regulations, navigation rules, and personal responsibility.
- Local characteristics of the waterway to be used.

This section also provides that a livery may not lease, hire, or rent a personal watercraft to a person under the age of 18, nor may it allow any leased, hired, or rented personal watercraft to be operated by a person who is under 18 years of age; however, a livery may permit a person 16 or 17 years of age to operate a leased, hired, or rented personal watercraft if there is in the immediate vicinity of the operation a person who is 18 years of age or older, who is attendant to

the operation of the personal watercraft, and who is responsible for any violation that occurs during the operation.

The bill provides that the limitation on liability currently provided by s. 327.54(6), F.S., for a livery meeting the requirements of subsections (1), (2), (3), and (4), of s. 327.54, F.S., does not apply to the lease, hiring, or rental of a personal watercraft.

Finally, the section requires a personal watercraft livery to carry insurance from a licensed insurance carrier in Florida insuring against any accident, loss, injury, property damage, or other casualty caused by or resulting from the operation of its personal watercraft. The policy must provide coverage of at least \$500,000 per person and \$1 million per event. The livery must have proof of the coverage available where it rents personal watercraft and provide renters the carrier's name, address, and policy number.

Section 8. In order to incorporate the amendments to section 327.39 and 327.395, F.S., in references to them, s. 327.73(1),(p), and (s), F.S., which establish non-criminal infractions, are republished.

Section 9. The act shall take effect July 1, of the year in which enacted.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Owners of personal watercraft formerly classified as Class A-1 for vessel registration purposes would pay an additional \$7.00 annually as a result of classifying all personal watercraft as Class A-2.

B. Private Sector Impact:

The assignment of all personal watercraft to Class A-2 for vessel registration purposes will increase the registration fee charged the owners of an estimated 70,605 personal watercraft by \$7.00 in FY 1998-1999. In FY 1999-2000, approximately 78,372 would pay the increased fee. The DEP estimates approximately 86,992 personal watercraft would be registered in FY 2000-2001.

It is possible that increasing the minimum age for operation and rental of personal watercraft could have a negative impact on sales and rentals of these crafts, but this is speculative at this time.

The requirement that liveries possess liability insurance will be a new expense for those not currently carrying insurance, but the costs of such coverage cannot be determined at this time.

If this bill results in safer operation of personal watercraft, the public should benefit from reduced costs due to accidents.

C. Government Sector Impact:

Increased revenues from the registration of personal watercraft are estimated to be \$494,235 for FY 1998-1999, \$548,604 in FY 1999-2000, and \$608,944 in FY 2000-2001. These funds will be divided equally between the DEP and the Game and Fresh Water Fish Commission.

The DEP reports that it would need two new staff assistant positions and associated expenses to process personal watercraft identification cards and boating safety education enhancements. This cost would be \$72,256.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.