

STORAGE NAME: h3915s1.grr

DATE: April 10, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL RULES AND REGULATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3915

RELATING TO: Boating Safety

SPONSOR(S): The Committee on Crime and Punishment, and Representatives Tobin and Brown

COMPANION BILL(S): CS/SB 1880 (S)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME AND PUNISHMENT YEAS 8 NAYS 0
 - (2) GOVERNMENTAL RULES AND REGULATIONS
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

The committee substitute clarifies the definition of "personal watercraft" to include only those personal watercraft which are less than 16 feet in length.

The committee substitute directs that fees collected from the registration of personal watercraft, except for those earmarked for the Save the Manatee Trust Fund, will be deposited in equal parts into the Marine Resources Conservation Trust Fund and the State Game Trust Fund.

The committee substitute lists specific conduct which will be deemed reckless operation for all vessels.

The committee substitute raises the minimum age for operation of a personal watercraft from 14 to 16, effective July 1, 2000. It raises the minimum age for an operator of a rented or leased vessel to 18.

The committee substitute requires vessel rental operations to provide instruction on safety, the rules of navigation and personal responsibility to the operator of anyone renting a vessel.

Current law makes vessel rental operators immune from liability if they have complied with all safety regulations. The committee substitute removes this immunity for personal watercraft rentals and requires personal watercraft rental operators to carry a policy from a licensed insurance carrier in this state, insuring against any accident, loss, injury, or property damage, or other casualty in the amount of \$500,000 per person and \$1 million per event.

The effective date is July 1 of the year in which enacted.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Personal Watercraft

Current law defines a personal watercraft as a small class A-1 (0-12 feet) or A-2 (12-16 feet) vessel which uses an outboard motor, or an inboard motor powering a water jet pump, as its primary source of motive power and which is designed to be operated by a person sitting, standing, or keeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

Disproportionate Injuries and Deaths

Personal watercraft are designed to carry 1 to 3 riders by kneeling, sitting or standing on the vessel. Statistics gathered by the Department of Environmental Protection show that, of the total number of injuries incurred upon Florida's waterways, coastlines and lakes, in 1997 (754), nearly half involved personal watercraft (357). And, since 1989, more than 64 people have died in personal watercraft accidents.

B. EFFECT OF PROPOSED CHANGES:

New Definition For Personal Watercraft

The committee substitute clarifies the definition of "personal watercraft" to include only those personal watercraft which are less than 16 feet in length.

Registration Fees Are Kept By the Department

The committee substitute directs that fees collected from the registration of personal watercraft, except for those earmarked for the Save the Manatee Trust Fund, will be deposited in equal parts into the Marine Resources Conservation Trust Fund and the State Game Trust Fund. The committee substitute further directs that these funds shall be used, only, for the enforcement of boating laws, rules and ordinances and for boating safety education and training.

Specifies Conduct Which Constitutes Reckless Operation

The committee substitute lists specific conduct which will be deemed reckless operation of a vessel, as follows:

- 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, unless navigating a narrow channel.
- Operating contrary to navigation rules.

- Following too close to another vessel, including another personal watercraft, unless navigating a narrow channel. (“Following too close” is defined as proceeding in the same direction and operating at a speed in excess of 10 mph within 100 feet to the rear or 50 feet to the side of another vessel which is underway”).

New Age Requirements

The committee substitute raises the minimum age for operation of a personal watercraft from 14, to 16 years, effective July 1, 2000. It raises the minimum age to 18 if the operator rents or leases the vessel. The operator must possess photographic identification to prove his age during all periods of operation.

New Regulations For Liveries

Liveries (business entities engaged in the short-term rental or leasing of personal watercraft) may not rent a vessel with a motor of 10 horsepower, or greater, without providing instruction to include:

- operational characteristics of the vessel,
- laws and regulations, navigation rules, and personal responsibility, and
- local characteristics of the waterway.

Liveries Must Have Insurance

Current law provides that all vessel rental operators are free from liability as long as they comply with all required safety regulations and safety instruction.

The committee substitute removes this immunity from liability for personal watercraft rentals and requires personal watercraft rental operators to carry a policy from a licensed insurance carrier in this state, insuring against any accident, loss, injury, or property damage, or other casualty in the amount of \$500,000 per person and \$1 million per event.

Effective Date

The committee substitute provides an effective date of July 1, of the year in which enacted.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. Personal watercraft liveries will become liable for accidents involving their vessels and must maintain an insurance policy for such events.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. The bill criminalizes the operation of personal watercraft by a person under 16. It criminalizes the rental to an operator under 18.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 327.02, 327.25, 327.28, 327.39, 327.395, 327.54, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 327.02, F.S., redefining "personal watercraft."

Section 2: Amends s. 327.25, F.S., defining A-2 classification of vessels.

Section 3: Amends s. 327.28, F.S., directing that fees from the registration of personal watercraft shall be deposited into the Marine Resources Trust Fund and the State Game Trust Fund.

Section 4: Amends s. 327.33, F.S., to provide for examples of, but not limited to, maneuvers that constitute reckless operation of a vessel.

Section 5: Amends s. 327.39, F.S., restricting hours of operation for personal watercraft and specifying conduct which constitutes reckless operation of a vessel.

Section 6: Amends s. 323.39, F.S., by raising the minimum age for operating a personal watercraft to 16, effective July 1, 2000.

Section 7: Amends s. 327.395, F.S., to incorporate the act by reference.

Section 8: Amends s. 327.54, regulating liveries for personal watercraft.

Section 9: Amends s. 327.73, F.S., to incorporate the act by reference.

Section 9: Provides an effective date.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See, Fiscal Comments.

2. Recurring Effects:

See, Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See, Fiscal Comments.

4. Total Revenues and Expenditures:

See, Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See, Fiscal Comments.

2. Recurring Effects:

See, Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See, Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See, Fiscal Comments.

2. Direct Private Sector Benefits:

See, Fiscal Comments.

3. Effects on Competition, Private Enterprise and Employment Markets:

See, Fiscal Comments.

D. FISCAL COMMENTS:

The Criminal Justice Estimating Conference has not met to discuss this bill, but offers a tentative estimate of **no fiscal impact**.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The section which criminalizes the operation by, or rental to, persons under certain ages is exempt from the provisions of Article VII, Section 18 because it involves a criminal statute. The remainder of the committee substitute does not impose an unfunded mandate upon local governments.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

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V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 25, 1998, the Committee on Crime and Punishment adopted nine amendments to HB 3915 and incorporated these amendments into a committee substitute.

VII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

Prepared by:

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AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

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