

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.)

BILL: SB 1944

SPONSOR: Senator Kurth

SUBJECT: Boating Safety

DATE: March 24, 1999

REVISED: 3/31/99

4/1/99

4/5/99

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/1 amendment</u>
2.	<u>Gee</u>	<u>Voigt</u>	<u>NR</u>	<u>Fav/2 amendments</u>
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This bill redefines “personal watercraft” and classifies all personal watercraft as Class A-2 vessels. The bill 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 and times of operation. The bill raises the minimum age for such operation from 14 to 16, 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. It requires all vessel operators to carry certain photographic identification. The bill revises the requirements of liveries relating to pre-rental or pre-ride instruction, the minimum age for rentals and insurance coverage.

This bill substantially amends ss. 327.02, 327.25, 327.28, 327.39, 327.395, and 327.54, Florida Statutes. This bill reenacts s. 327.73(1)(p) and (s), Florida Statutes. This bill creates s. 327.49, Florida Statutes.

II. Present Situation:

Section 327.02(27), F.S., defines a personal watercraft as a small class A-1 or A-2 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 kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

Section 327.25(1), F.S., establishes vessel registration fees. If less than 12 feet in length, vessels are classified as a Class A-1 vessel, for which the fee is \$3.50. If longer than 12 feet but less than 16 feet, vessels are classified as a 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 of the Department of Environmental Protection (DEP). These funds are transferred out 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.

This section also allows antique vessels to display their registration number and decal on the port side of the windshield. This provision is in conflict with controlling and preemptive federal regulations, as well as ss. 327.11 and 327.14, F.S. The United States Coast Guard has indicated that the state's federal boating safety grant (currently \$3.9 million) will be jeopardized unless this discrepancy is corrected by May 1999.

Section 327.28, F.S., states that except as otherwise specified and less any administrative costs, all funds collected from the registration of vessels through the Department of Highway Safety and Motor Vehicles and the tax collectors of the state shall be deposited in the Marine Resources Conservation Trust Fund.

Section 327.39, F.S., provides that persons riding on personal watercraft must wear a type I, type II, type III, or type IV personal flotation device approved by the U. S. Coast Guard. 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.

This section also requires personal watercraft to be operated in a reasonable and prudent manner and specifies several maneuvers that are prohibited as unsafe and that constitute reckless operation of a vessel. The present minimum age for personal watercraft operation is 14. 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.

Section 327.54(6), F.S., provides that when a livery has complied with certain requirements its liability ceases and the person leasing the vessel from the livery is liable for any violations of ch. 327, F.S. and is personally liable for any accident or injury occurring while in charge of such vessel.

There is currently no specific statute linking the testing of vessels and vessel motors to ensuring public safety.

Currently, there are no requirements for a livery to provide any type of instruction when they rent a vessel equipped with a motor of 10 horsepower or greater, nor is insurance coverage required. The DEP reports that personal watercraft, particularly rented personal watercraft are disproportionately involved in boating accidents. Although they comprise less than 10% of all registered vessels in Florida, personal watercraft are involved in more than one-third of all boating accidents and account for more than one-half of all boating injuries. More than 83% of all personal watercraft operators involved in accidents have never had any formal boating safety training. Personal watercraft are involved in 16% of all boating fatalities in Florida. Less than one-half of 1% of all vessels registered in this state are rental personal watercraft; approximately 4% of all registered personal watercraft are used for rental purposes. Nevertheless, rented

personal watercraft are involved in 22% of all boating accidents and almost two-thirds of all personal watercraft accidents. Over 36% of all personal watercraft fatalities occurred on rented personal watercraft. More than 38% of personal watercraft injuries and almost 20% of all boating injuries occurred on rented personal watercraft.

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 all personal watercraft, for purposes of registration, as Class A-2 for which the fee is \$10.50. Also, the section conforms requirements for display of registration numbers and decals on antique vessels to existing federal requirements by eliminating authority to place the registration numbers on the windshield.

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 for manatee and marine mammal programs in paragraphs (a) and (b), all funds collected from the registration of personal watercraft shall remain in the Marine Resources Conservation Trust Fund and may only be appropriated for on-the-water 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, and provides that any person operating a personal watercraft must comply with the provisions of s. 327.33, F.S. (“Reckless or careless operation of vessel”).

The bill provides no person under 18 years of age shall operate any leased, hired, or rented personal watercraft, except that a person aged 16 or 17 may operate a leased, hired, or rented personal watercraft if a person who is 18 years of age or older is aboard, is attendant to the operation of the personal watercraft, and is responsible for any violation that occurs during the operation, and both persons have complied with the photographic identification requirements contained in s. 327.395, F.S.

The bill provides it is unlawful for the owner of any leased, hired, or rented personal watercraft or any person having charge over such watercraft to authorize or knowingly permit a personal watercraft to be operated by:

- Any person under 18 years of age; however, a person aged 16 or 17 may operate a leased, hired, or rented personal watercraft if a person who is 18 years of age or older is aboard, is attendant to the operation of the personal watercraft, and is responsible for any violation that occurs during the operation, provided that both persons have complied with the identification requirements of s. 327.395, F.S.; or

- Any person who has not received instruction in the safe handling of personal watercraft, in compliance with the standards established by the department, and signed a written statement attesting to the same.

Section 5. The bill provides that effective *July 1, 2000*, no person under the age of 15 shall operate any personal watercraft on the waters of this state. Similarly, it is unlawful for the owner of any personal watercraft or any person having charge over such watercraft to authorize or knowingly permit a personal watercraft to be operated by a person under the age of 15.

Section 6. The bill provides that effective *July 1, 2001*, no person under the age of 16 shall operate any personal watercraft on the waters of this state. It is unlawful for the owner of any personal watercraft or any person having charge over such watercraft to authorize or knowingly permit a personal watercraft to be operated a person under the age of 16.

Section 7. Section 327.395, F.S., is amended to provide that every person operating a vessel on the waters of this state must carry and have available for inspection photographic identification. The bill specifies documents constituting photographic identification.

Section 8. Section 327.49, F.S., is amended to provide that manufacturers of vessels and vessel motors are authorized to test their products on waters of the State of Florida so long as they ensure that generally accepted boating safety standards are met.

Section 9. Section 327.54, F.S., is amended to specify 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 the following:

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

The bill states any person providing pre-rental instruction must have successfully completed a boater safety course approved by the National Association of State Boating Law Administrators and this state. Additionally, a livery is required to display boating safety information in a place visible to the renting public.

The bill provides a livery may not permit any leased, hired, or rented personal watercraft to be operated by a person under 18 years of age, except a person aged 16 or 17 may operate a leased, hired, or rented personal watercraft if a person who is 18 years of age or older is aboard, is attendant to the operation of the personal watercraft, and is responsible for any violation that occurs during the operation, and provided both have complied with the photographic identification requirements contained in s. 327.395, F.S. In addition, a livery may not knowingly lease, hire, or rent a watercraft to a person who has not received instruction in the safe handling of personal watercraft, in compliance with the standards established by the DEP, and signed a written statement attesting to the same.

The bill repeals the current provisions purporting to limit the liability of liveries and the controlling federal statutes (46 U.S.C. Appendix ss. 181-189) are adopted by reference.

The bill 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. The bill deletes the limitation on liability for liveries renting personal watercraft. Section 10. 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.

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 vessels. Currently, there are 77,416 personal watercraft registered in the state.

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 personal watercraft by \$7.00.

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. Similarly, some liveries may experience some loss of revenue associated with increased minimum age for operation.

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

C. Government Sector Impact:

According to DEP, increased registration fees for personal watercraft will generate approximately \$541,416 in additional revenue. These funds will be deposited into the Marine Resources Conservation Trust Fund and will be for boating safety enforcement, education, and training.

Amendment of provisions relating to display of registration numbers on antique vessels will protect the \$3.9 million federal boating safety grant.

VI. Technical Deficiencies:

It appears that amendment #1 inadvertently deleted a provision providing that violation of s. 327.395, F.S., is a noncriminal infraction.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Transportation:

Deletes the requirement that persons operating a vessel carry and have available for inspection photographic identification indicating the operator's date of birth.

#1 by Natural Resources:

Deletes the requirement that persons operating a vessel carry and have available for inspection photographic identification indicating the operator's date of birth. Retains a noncriminal violation. (The amendment is largely technical and cures a defect in Amendment #1 by Transportation which inadvertently deleted a provision establishing a noncriminal infraction).

#2 by Natural Resources:

Replaces a requirement that a livery renting a vessel of 10 horsepower or greater provide instruction on laws and regulations, navigation rules, and personal responsibility with the requirement that the instructions be on safe vessel operation, vessel right-of-way, and responsibility of the vessel operator for the safe and proper operation of the vessel.