

# 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: CS/SB 148

SPONSOR: Transportation Committee and Senator Kurth

SUBJECT: Boating Safety

DATE: February 9, 2000

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>NR</u>	_____
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This CS redefines “personal watercraft” as a vessel less than 16 feet in length. The CS provides that except as specified personal watercraft registration fees cannot be transferred from the Marine Resources Conservation Trust Fund and may only be used for on-the-water enforcement of boating laws, rules and ordinances and for boating safety education and training. The CS also specifies personal watercraft operators and passengers may not wear inflatable type personal flotation devices. The CS requires the registration number for antique vessels be permanently affixed to each side of the forward half of the vessel.

The CS states persons under the age of 18 may not operate a rented personal watercraft unless they are 16 or 17 years of age and are accompanied by a person 18 years or who is present at the time of rental and is on board and in command during all phases of operation. The CS makes it unlawful for any owner or others in control of rented personal watercraft to allow operation by underage or untrained individuals. It raises the minimum age of a person who may operate any personal watercraft to 15, effective July, 1, 2001.

The CS allows manufacturers to test vessels and vessel motors on the waters of the state, provided the testing does not adversely impact the safety of the boating public and subject to reasonable rules promulgated by the Florida Fish and Wildlife Conservation Commission. The also CS addresses a number of boating education and insurance issues for businesses that rent personal watercraft.

This CS substantially amends the following sections of the Florida Statutes: 327.02, 327.39, 327.54, 328.72, and 328.76. This CS creates the following section of the Florida Statutes: 327.49.

## II. Present Situation:

Section 327.02, F.S., defines a personal watercraft as a small class A-1 (less than 12 feet) or A-2 (12 to 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 kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

Section 327.39, F.S., provides for the operation of personal watercraft. This section provides persons riding on personal watercraft must wear a type I, type II, type III, or type IV personal flotation device approved by the United States Coast Guard. This section prohibits the operation of personal watercraft between 30 minutes after sunset to 30 minutes before sunrise. This section also requires personal watercraft to be operated in a reasonable and prudent manner and specifies several unsafe maneuvers that are prohibited as unsafe and 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, F.S., provides for the regulation of liveries. This section provides a livery may not knowingly lease, hire, or rent a vessel when the vessel is equipped with a motor of 10 horsepower or greater, unless there is a prerenal or preride instruction in the safe operation of the vessel by the livery. A livery may not knowingly lease, hire, or rent any vessel powered by a motor of 10 horsepower or greater to any person who is required to comply with s. 327.395, F.S. (boating safety identification cards), unless such person presents a valid boater safety identification card to the livery. When a livery has complied with certain requirements its liability ceases. 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.

Section 328.72, 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. Class A-2 vessels pay a \$10.50 registration fee, with \$2.85 returned to the county where the vessel is registered.

Section 328.76, F.S., provides for the distribution of vessel registration fees. The first \$1.50 of all registration fees goes to the Save the Manatee Trust Fund of which \$1 goes to manatee and marine mammal research, protection and recovery, and 50¢ goes to manatee rescue, rehabilitation and release. The Aquatic Plant Control Trust Fund receives \$2 from non-commercial registration fees, except for class A-1 vessels, and 40 percent from commercial vessel registration fees. Forty percent of the registration fees from commercial vessels must be used for law enforcement and quality control programs. The remainder of the funds are deposited in the Marine Resources Conservation Trust Fund for recreational channel marking; public launching facilities; aquatic weed control; manatee protection, recovery, rescue, rehabilitation and release; and marine mammal protection and recovery.

The Florida Fish and Wildlife Conservation Commission reports personal watercraft, particularly rented personal watercraft, are disproportionately involved in boating accidents. Although they

comprise less than 10 percent of all registered vessels in Florida, they are involved in more than one-third of all boating accidents and account for more than one-half of all boating injuries. Less than one-half of 1 percent of all vessels registered in this state are rental personal watercraft; approximately 4 percent of all registered personal watercraft are used for rental purposes. Nevertheless, rented personal watercraft are involved in 22 percent of all boating accidents and almost two-thirds of all personal watercraft accidents. Over 36 percent of all personal watercraft fatalities occurred on rented personal watercraft. More than 38 percent of personal watercraft injuries and almost 20 percent of all boating injuries occurred on rented personal watercraft.

According to the Department of Highway Safety and Motor Vehicles, there are currently 81,324 personal watercraft registered in the state

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 327.02(27), F.S., to redefine a personal watercraft as a vessel measuring less than 16 feet in length. In addition, a reference to vessel operation while being towed is deleted.

**Section 2.** Amends s. 327.39, F.S., to provide approved personal watercraft personal flotation devices may not be of the inflatable type. Requires a person operating a personal watercraft to comply with the provisions of s. 327.33, F.S., regarding reckless or careless operation of a vessel. Prohibits a person under the age of 18 from operating a leased, hired, or rented personal watercraft. Exempts from this prohibition persons who are 16 or 17 years of age who are accompanied by a person 18 years of age or older at the time of rental. The adult must be on board and in command during all phases of operation. Requires the 16 or 17 year old and the adult to comply with s. 327.395, F.S., when applicable. Makes it unlawful for any owner or person having charge over or control of a leased, hired, or rented personal watercraft to allow underage or untrained individuals to operate personal watercraft.

**Section 3.** Amends s. 327.39, F.S., to raise the minimum age for operation of any personal watercraft to 15 years of age, effective July, 1, 2001.

**Section 4.** Creates s. 327.49, F.S., to authorize manufacturers to test vessels and vessel motors, provided the testing does not adversely impact the safety of the boating public, and subject to reasonable rules adopted by the Florida Fish and Wildlife Conservation Commission.

**Section 5.** Amends s. 327.54, F.S., to provide that prior to leasing, hiring, or renting vessels with 10 horsepower or greater motors, liveries must provide instruction regarding the operational characteristics of the vessel; safe vessel operation and vessel right of way, the responsibility of the vessel operator for the safe and proper operation, and local characteristics of the waterway where the vessel will be operated. The instructor must have successfully completed a boater safety course approved by the National Association of State Boating Law Administrators and this state. The livery must also display boating safety information in a place visible to the renting public, and the bill authorizes the Commission to prescribe the contents and size of such information by rule.

Prohibits a livery from permitting any leased, hired, or rented personal watercraft to be operated by a person under the age of 18. Exempts from this prohibition persons who are 16 or 17 years of

age who are accompanied by a person 18 years of age or older at the time of rental. In addition, the adult must be on board and in command during all phases of operation. Requires the 16 or 17 year old and the adult to comply with s. 327.395, F.S., when applicable. Prohibits liveries from knowingly leasing, hiring, or renting a personal watercraft to any person who has not received personal watercraft safety training and signed a written statement attesting to that.

Requires personal watercraft liveries to carry and show proof of insurance in full force and effect against accident, loss, injury, property damage, or other casualty in the amount of \$500,000 per person and \$1 million per event. Repeals current livery liability provisions.

**Section 6.** Reenacts paragraph (p) of s. 327.73(1), F.S., to incorporate the amendments to s. 327.39, F.S., referring to personal watercraft and boater safety education.

**Section 7.** Requires antique vessels to permanently affix registration numbers to each side of the forward half of the vessel. Decals identifying the vessel as an antique vessel must be displayed as provided in s. 328.48, F.S. and s. 328.54, F.S.

**Section 8.** Amends s. 328.76, F.S., to prohibit personal watercraft registration fees from being transferred from the Marine Resources Conservation Trust Fund and requires such funds to be used only for on-the-water enforcement of boating laws, rules and ordinances and for boating safety education and training.

**Section 9.** Except as otherwise provided, the bill takes effect July 1, 2000.

#### **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:**

None.

**B. Private Sector Impact:**

The requirement that liveries possess liability insurance will be a new expense for those businesses 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 CS results in safer operation of personal watercraft, the public should benefit from reduced costs due to accidents and the resulting injuries.

**C. Government Sector Impact:**

The CS provides that with certain exceptions, fees generated through the registration of personal watercraft shall not be transferred from the Marine Resources Conservation Trust Fund and may only be appropriated for increased on-the-water enforcement of boating laws, rules, and ordinances.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.