

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: CS/SB 306
 INTRODUCER: Commerce Committee and Senator Rich
 SUBJECT: Vessel and Personal Watercraft Safety
 DATE: April 16, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiggins</u>	<u>Kiger</u>	<u>EP</u>	Favorable
2.	<u>Hrdlicka</u>	<u>Cooper</u>	<u>CM</u>	Fav/CS
3.	<u>DeLoach</u>	<u>DeLoach</u>	<u>GA</u>	Favorable
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:	
A. COMMITTEE SUBSTITUTE.....	<input checked="" type="checkbox"/> Statement of Substantial Changes
B. AMENDMENTS.....	<input type="checkbox"/> Technical amendments were recommended
	<input type="checkbox"/> Amendments were recommended
	<input type="checkbox"/> Significant amendments were recommended

I. Summary:

The bill increases the minimum age requirement for individuals operating personal watercraft from 14 to 16 years of age. Additionally, it prohibits any personal watercraft owner from allowing an individual under the age of 16 or a person under the age of 21 who does not hold a Florida boating safety identification card to operate the owner's personal watercraft.

The bills requires individuals who deliver instruction in the safe operation of leased or rented personal watercraft to enroll in at their own expense, attend, and successfully complete a boating safety course approved by the National Association of State Boating Law Administrators and the State of Florida.

The bill provides an effective date of July 1, 2009.

This bill amends sections 327.39 and 327.54, Florida Statutes.

II. Present Situation:

Personal watercraft are commonly known as “jet skis” and are specifically defined in s. 327.02(30), F.S. They are regulated by s. 327.39, F.S. Current law provides for specific requirements for the safe operation of personal watercraft, which include:

- Persons operating¹ a personal watercraft shall wear a type I, II, III, or IV personal flotation device.
- Persons operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch must attach the lanyard to his or her person, clothing, or personal flotation device, as is appropriate for the specific vessel.
- Persons may not operate a personal watercraft between the hours of one-half hour after sunset to one-half hour before sunrise.
- Persons operating a personal watercraft must do so in a reasonable and prudent manner at all times.
- Persons under the age of 14 shall not operate any personal watercraft in waters of the state.
- Owners of or persons in control of a personal watercraft may not knowingly permit any person under the age of 14 to operate a personal watercraft.

Additionally, Florida boating law requires that any person 21 years of age or younger may not operate any vessel powered by a motor of ten horsepower or greater unless he or she has photographic identification and a boater safety identification card issued by the Florida Fish and Wildlife Conservation Commission (commission) with him or her while operating such vessels. To receive a boating safety identification card, a person must have completed a boating safety course meeting the minimum eight-hour instruction requirement established by the National Association of State Boating Law Administrators (NASBLA). Any boating safety course approved by both the NASBLA and the State of Florida can be used to meet this requirement. This includes courses delivered via home study, a classroom, or the Internet. Further, the person must pass a course equivalency examination or a temporary certificate examination approved by the commission. Any person may obtain a boater safety identification card by complying with these requirements.²

Between 2003 and 2007, a total of 34 operators of a personal watercraft who were between the ages of 14 and 16 were involved in reportable boating accidents, ten of which were from rented personal watercraft³. The requirements for per-rental instruction in the safe vessel operation include:

- Operational characteristics of the vessel to be rented.
- Safe vessel operation and vessel right-of-way.
- Responsibilities of the operator for the safe and proper operation of the vessel.

¹ “Operate” is defined in s. 327.02(27), F.S.

² Section 327.395, F.S.

³ Statistics provided by the Fish and Wildlife Conservation Commission in their bill analysis, on file with the committee. “Boating accident” is defined in s. 327.03(3), F.S., as “a collision, accident, or casualty involving a vessel in or upon, or entering into or exiting from, the water, including capsizing, collision with another vessel or object, sinking, personal injury, death, disappearance of any person from on board under circumstances which indicate the possibility of death or injury, or property damage to any vessel or dock.”

- Local characteristics of the waterway where the vessel is to be operated.

Additionally, the commission adopted Rule 68D-36.107, F.A.C., which established minimum instructional requirements of a livery⁴ renting or leasing personal watercraft. The instructor is required to provide to individuals intending to operate a personal watercraft the following requirements:

- Operator responsibilities (ethics), courtesy, and good judgment on the water.
- Navigation rules.
- Aids to navigation, such as buoys and other waterway markers.
- Awareness of changes in weather or water conditions and proper responses to those changes.
- Waterskiing and similar activities, if applicable to the personal watercraft.
- Boating accidents, prevention, and legal requirements of the operator.
- Propulsion, steering, and stopping characteristics of jet-pump vessel.
- Location and content of manufacturing labels.
- All other requirements pursuant to 68D-36, F.A.C.

The rule also requires that a person may not lease, hire, or rent a personal watercraft unless they show a safe operational instructional tape or provide and review safe operational literature with each prospective operator prior to operation. That person must also provide an on-the-water demonstration and check ride to verify the prospective operator's ability to handle the personal watercraft to be leased, hired, or rented.

III. Effect of Proposed Changes:

Section 1 amends s. 327.39, F.S., to increase the minimum age from 14 to 16 for anyone who operates a personal watercraft. It also requires that an owner may not knowingly allow any person under the age of 16 or any person under the age of 21 who does not possess a boating safety identification card in compliance with s. 327.395, F.S., to operate a personal watercraft. Current law specifies that violations of s. 327.395, F.S., are considered non-criminal infractions and can carry a minimum civil penalty of \$50.⁵

Section 2 amends s. 327.54, F.S., increasing the requirement for livery personnel delivering pre-ride or pre-rental instruction for the lease, hire, or rental of a personal watercraft. Those persons would be required to enroll in, attend, and successfully complete, at their own expense, a boating safety course approved by the National Association of Boating Law Administrators and the commission prior to delivering any instructions. These courses can be completed through a home study, in a classroom, or via the Internet.

The bill also adds a reference to the commission rule 68D- 36.107, F.A.C., Minimum Training Requirements for Personal Watercraft Rentals.

Section 3 provides an effective date of July 1, 2009.

⁴ A "livery" is a business that rents vehicles or vessels. Black's Law Dictionary (8th ed. 2004), livery.

⁵ Section 327.73, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases the age restriction on a person who may operate a personal watercraft from 14 to 16 years of age. Minimally, failure to comply with this provision of the bill could result in a non-criminal infraction that carries a civil penalty of \$50 as well as other civil penalties as provided in s. 327.73, F.S. A person who chooses to appear before the county court to dispute the infraction may be issued a civil penalty, not to exceed \$500, if the commission proves that the infraction took place. Court costs imposed cannot exceed \$45. If a person who is cited for a violation of s. 327.395, F.S., can show a valid boating safety identification card issued to that person at the time of the citation, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10.

The bill requires that owners of a personal watercraft must ensure that an individual has completed a boating safety course and has a boater safety identification card on his or her person before allowing operation of the personal watercraft. Owners of personal watercrafts who violate s. 327.39(6), F.S., are subject to stricter penalties pursuant to s. 327.72, F.S., as are livery personnel who violate the provisions of s. 327.54, F.S. "Any person failing to comply with the provisions of this chapter not specified in s. 327.73, F.S., commits a misdemeanor of the second degree, punishable as provided in ss. 775.082 or 775.083, F.S."⁶ Section 775.082, F.S., states that, for a misdemeanor of the second degree, the punishment may be sentencing of 60 days or less imprisonment. Section 775.083, F.S., states that, for a misdemeanor of the second degree, an individual may be sentenced to pay a \$500 fine either in addition to or in lieu of imprisonment imposed under s. 775.082, F.S. Section 775.083, F.S., also imposes court costs of \$20.

⁶ Section 327.72, F.S.

The bill increases the requirement for livery personnel delivering pre-ride or pre-rental instruction for the lease, hire, or rental of a personal watercraft. The commission indicates that fiscal impacts to the private sector are not anticipated to be significant. Livery personnel, if they have not already done so, are required to attend and successfully complete a boating safety course, at their own expense, before providing pre-ride or pre-rental instruction. The commission has stated that courses that meet this requirement cost an average of \$35 per person.

C. Government Sector Impact:

The commission indicates that the provisions of the bill can be implemented, as part of their ongoing boating law enforcement responsibilities, at no additional cost.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce Committee on March 17, 2008:

The committee substitute makes the following technical changes:

- Clarifies who is required to have a boating safety identification card to operate an owner's personal watercraft (those who are under 21); and
- Amends the citation to the Florida Administrative Code to the specific administrative rule dealing with personal watercraft.

B. Amendments:

None.