

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 Environmental Preservation and Conservation Committee

BILL: SB 100

INTRODUCER: Senator Rich

SUBJECT: Vessel and Personal Watercraft Safety

DATE: February 17, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Kiger	EP	Favorable
2.			GA	
3.				
4.				
5.				
6.				

I. Summary:

The bill amends s. 327.39, F.S. to increase the minimum age requirement for individuals operating personal watercraft (PWC) from 14 to 16. Additionally, it prohibits any boat owner from allowing an individual under the age of 16, or a person who does not hold a Florida Boating safety identification card who is under the age of 21, to operate the owner's personal watercraft.

Finally, the bill amends s. 327.54, F.S., requiring individuals who deliver instruction in the safe operation of leased or rented PWC to enroll in, attend, and successfully complete a boating safety course, at their own expense, approved by the National Association of State Boating Law Administrators and the Florida Fish and Wildlife Conservation Commission (commission).

The bill provides an effective date of July 1, 2010.

The bill amends s. 327.39, F.S., and s. 327.54, F.S.

II. Present Situation:

Current law provides for specific requirements for the safe operation of personal watercraft which includes:

- Persons operating a PWC shall wear a type I,II,III, or IV personal flotation device;
- Persons operating a PWC 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 PWC between the hours of one-half hour after sunset to one-half hour before sunrise;
- Persons operating a PWC must do so in a reasonable and prudent manner at all times;
- Persons under the age of 14 shall not operate any PWC in waters of the state; and
- Owners of or persons in control of a PWC may not knowingly permit any person under the age of 14 to operate a PWC.

Additionally, Florida boating law requires that any person 21 years of age or younger may not operate any vessel powered by a motor of 10 horsepower or greater unless they have completed a boating safety course approved by the commission. Any course approved by the National Association of State Boating Law Administrators and the commission can be used to meet this requirement. This includes courses delivered via home study, a classroom, or the Internet. Those persons must have photographic identification as well as the boater safety identification card issued for completing the boating safety course with them while operating such vessels.

Between 2003 and 2007, a total of 34 operators of a PWC who were between the ages of 14 and 16 were involved in reportable boating accidents, 10 of which were from rented PWC¹. 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; and
- Local characteristics of the waterway where the vessel is to be operated

Additionally, the commission adopted rule 68D-36, F.A.C. which established minimum instructional requirements of persons renting or leasing PWC. The instructor is required to provide to individuals intending to operate the PWC 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 PWC;
- Boating accidents, prevention, and legal requirements of the operator;
- Propulsion, steering and stopping characteristics of jet-pump vessel;
- Location and content of manufacturing labels; and
- All other requirements pursuant to 68D-36 F.A.C.

The rule also requires that a person may not lease, hire, or rent a PWC 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 operators' ability to handle the PWC to be leased, hired, or rented.

¹ Statistics provided by the Fish and Wildlife Conservation Commission

III. Effect of Proposed Changes:

Section 1: The bill amends s. 327.39, F.S. to increase the minimum age from 14 to 16 for anyone who operates a PWC. It also requires that an owner not knowingly allow a person under the age of 16 who does not possess a boating safety identification card in compliance with s. 327.395 F.S., to operate a PWC. Violations of s. 327.395, F.S., are considered non-criminal infractions and can carry a minimum civil penalty of \$50 as provided in s. 327.73, F.S.

Section 2: The bill amends s. 327.54., F.S., increasing the requirement for persons delivering pre-ride or pre-rental instruction often referred to as liveries for a PWC. Those persons would be required to enroll in, attend, and successfully complete, at his or her expense, a boating safety course approved by the National Association of Boating Law Administrators and the Commission. These courses can be completed through a home study, in a classroom, or via the Internet. The bill also adds a reference, on the safe handling of PWC, to the current commission rule, Minimum Standards for Mandatory Boating Safety Courses, 68D- 36, Florida Administrative Code (F.A.C.).

Section 3: The bill provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires that owners of a PWC must ensure that any individual between the ages of 16 and 21 have completed a boating safety course and have a boater safety identification card on their person before allowing operation of their PWC. Minimally, failure to comply with these provisions 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. The additional civil penalties could include additional court costs not to exceed \$45. 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 court proves that the infraction took place. 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 commission indicates that fiscal impacts to the private sector are not anticipated to be significant. However, livery personnel who have not completed the course would be required to attend 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 FWC indicated they could implement the provisions of the bill, 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.)

None.

B. Amendments:

None.