

FINAL BILL ANALYSIS

BILL #: CS/CS/SB 512

FINAL HOUSE FLOOR ACTION:
115 Y's 1 N's

SPONSOR: Sen. Negron (Rep. Harrell)

GOVERNOR'S ACTION: Approved

COMPANION BILLS: CS/CS/HB 293; CS/SB 968

SUMMARY ANALYSIS

CS/CS/SB 512 passed the House on May 4, 2011. The bill was approved by the Governor on June 17, 2011, chapter 2011-152, Laws of Florida and takes effect October 1, 2011. The bill revises statutory provisions governing the operation of vessels.

Currently, any person who violates navigational rules where the violation results in a boating accident, but whose violation did not constitute reckless operation of a vessel, is guilty of a second degree misdemeanor.

Current law requires a person born after January 1, 1988, to have a boater safety identification card to operate a vessel powered by a motor of 10 horsepower or greater. In order to obtain a boater safety identification card, the person must have completed a boater education course approved by the Florida Fish and Wildlife Conservation Commission (FWCC) that meets the minimum eight-hour instruction requirement established by the National Association of State Boating Law Administrators. A person may also obtain a boater safety identification card by passing a course equivalency examination approved by the FWCC or pass a temporary certificate examination developed or approved by the FWCC. The FWCC may appoint liveries, marinas, or other agents to administer the boater safety course, as long as the entities adhere to the FWCC's established guidelines. Once the FWCC has received documented proof that the applicant successfully completed the course, then the FWCC will mail a boater safety identification card to the applicant. It currently takes the FWCC up to ten days to mail a card to an applicant who has successfully completed the boating safety course and has provided all of the necessary identification documentation.

CS/CS/SB 512 amends current statute by removing the criminal penalty for violations of a navigational rule that results in an accident, so long as it does not constitute reckless operation of a vessel and does not cause serious bodily injury or death. Any individual who violates navigational rules that causes serious bodily injury or death still commits a second degree misdemeanor.

The bill provides the following fines for violations of navigational rules resulting in an accident not causing serious bodily injury or death:

- For the first offense, up to a maximum of \$250.
- For the second offense, up to a maximum of \$750.
- For a third or subsequent offense, up to a maximum of \$1,000.

The bill amends current law to allow the operation of a vessel without a FWCC-issued Boater Identification card, for up to 90 days, for a boater who can prove boater safety course completion and provide photo identification. In order to prove boater safety course completion, the boater must be able to provide a Boater Education Certificate that includes the student's first and last name, date of birth, and the date he/she passed the course examination.

According to the Fish and Wildlife Conservation Commission (FWCC) analysis, the bill appears to have a positive fiscal impact on FWCC revenues because of the increase in fines that will be collected for certain violations of navigational rules and deposited into the Marine Resources Conservation Trust Fund, to be used for boating education purposes. However, the exact fiscal impact is unknown. The bill also appears to have a positive fiscal impact on local governments by eliminating the criminal penalty, and thus reducing court costs and/or county jail costs.

The bill has an effective date of October 1, 2011.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Violation of Navigation Rules

Current Situation

Section 327.33, F.S., provides that any person who violates navigational rules where the violation that results in a boating accident, but whose violation did not constitute reckless operation of a vessel, is guilty of a second degree misdemeanor, punishable by a fine of up to \$500 and/or imprisoned for up to 60 days.¹

Any person who violates navigational rules that does not result in a boating accident and does not constitute reckless operation of a vessel is guilty of a noncriminal violation.² Section 775.08, F.S., defines a noncriminal violation as 'any offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture, or other civil penalty.

Section 327.73, F.S., provides that any person charged with a noncriminal infraction be cited and appear before a county court or pay the civil penalty, which is \$50. If a person chooses to appear in court, he/she has waived the limitations of the civil penalty. If the court determines the person guilty, a civil penalty of up to \$500 may be imposed. Any person failing to appear for the boating citation will also be charged with failing to respond and, if convicted, will be guilty of a second degree misdemeanor.

Any person convicted of a criminal violation, a non-criminal infraction that resulted in a reportable boating accident, or two non-criminal infractions in a 12-month period is required to enroll in a boating safety course that meets minimum standards established by the Florida Fish and Wildlife Conservation Commission (FWCC).³

According to the FWCC analysis, from 2007-2010, there were 452 individuals cited for second degree misdemeanor violations of navigational rules that resulted in a boating accident. During that same period, there were 303 individuals cited for noncriminal infractions for navigational rule violations that did not result in a boating accident.

Effect of Proposed Changes

The bill amends s. 327.33, F.S., by removing the criminal penalty for individuals who violate a navigational rule where the violation results in an accident and makes these noncriminal infractions so long as the violation does not constitute reckless operation of a vessel and does not cause serious bodily injury or death. Any individual who violates navigational rules where the violation causes serious bodily injury or death still commits a second degree misdemeanor.

The bill provides a fine for all violations of navigational rules resulting in an accident not causing serious bodily injury or death to the following:

- For the first offense, up to a maximum of \$250.
- For the second offense, up to a maximum of \$750.

¹ Sections 775.082 or 775.083, F.S.

² For a complete list of noncriminal infractions relating to vessel laws, see s. 327.33, F.S.

³ Rule 68D-36.106, F.A.C.

- For a third or subsequent offense, up to a maximum of \$1,000.

Lastly, the bill deletes a duplicative provision, makes technical changes, and reenacts s. 327.731(1), F.S., to incorporate changes for mandatory education requirements for violators.

Boater Identification Card

Current Situation

Section 327.395, F.S., requires a person born after January 1, 1988, to have a boater safety identification card to operate a vessel powered by a motor of 10 horsepower or greater. In order to obtain a boater safety identification card, the person must have completed a commission-approved boater education course that meets the minimum eight-hour instruction requirement established by the National Association of State Boating Law Administrators. A person may also obtain a boater safety identification card by passing a course equivalency examination approved by the FWCC or pass a temporary certificate examination developed or approved by commission.

The boater safety course may be taken in person at one of commission's state offices at no charge. An applicant may also take the course online at a cost of up to \$30. The FWCC lists the approved online courses on their website⁴. The U.S. Coast Guard also offers a FWCC-approved course for \$35.

The FWCC may appoint liveries, marinas, or other agents to administer the boater safety course, as long as the entities adhere to the FWCC's established guidelines. These private entities offer the course for approximately \$30. However, these entities may not issue a boater safety card on the premises. These private entities must send a \$2 exam fee to the FWCC, in addition to providing proof that the applicant successfully passed the course. The FWCC also allows the private entities to charge and keep an additional \$1 service fee⁵.

Once the FWCC has received documented proof that the applicant successfully completed the course, then it will mail a boater safety identification card to the applicant. It currently takes the FWCC up to ten days to mail a card to an applicant who has successfully completed the boating safety course and has provided all of the necessary identification documentation. Incomplete applications may take longer, as the FWCC must contact the applicant and retrieve any missing information.

Effect of Proposed Changes

The bill amends s. 327.395, F.S., to allow the operation of a vessel without a FWCC-issued Boater Identification card, for up to 90 days, for a boater who can prove boater safety course completion and provide photo identification. In order to prove boater safety course completion, the boater must be able to provide a Boater Education Certificate that includes the student's first and last name, date of birth, and the date he/she passed the course examination.

The bill also provides an exemption to allow liveries to accept boater education certifications that contain specific data, under specified conditions outlined in s. 327.395, F.S., as proof of successfully completing the Boater Education Course.

⁴ The Florida Fish and Wildlife Conservation Commission, *Boating Safety Education*, <http://myfwc.com/boating/safety-education/boating-courses>

⁵ Section 327.395(4), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments Section

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

By removing the criminal penalty for individuals who violate navigational rules where the violation results in an accident and making them noncriminal infractions, there could be a reduction in court costs and/or county jail costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals who violate navigational rules resulting in an accident not causing serious bodily injury or death may have to pay higher fines. The increase in fines, however, may deter violation of the navigational rules.

Private entities may see an increase in business if they are allowed to accept the Boater Education Certificate as individuals may rent boats on the premises after successfully completing the boater education course.

D. FISCAL COMMENTS:

According to the FWCC analysis, the bill appears to have a positive fiscal impact on the FWCC revenues because of the increase in fines that will be collected for certain violations of navigational rules, which are deposited into the Marine Resources Conservation Trust Fund, to be used for boating education purposes. However, the exact fiscal impact is unknown.