

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 370

INTRODUCER: Senator Rich

SUBJECT: Vessel Safety

DATE: April 5, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Pre-meeting
2.			CM	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill increases the minimum age requirement for individuals operating a personal watercraft (PWC) from 14 to 16. Additionally, it prohibits any PWC 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 born after January 1, 1988, to operate the owner’s personal watercraft.

Finally, the bill requires individuals who deliver instruction in the safe operation of leased or rented PWC to attend in person and successfully complete a boating safety course approved by the National Association of State Boating Law Administrators and the Florida Fish and Wildlife Conservation Commission (FWC).

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

II. Present Situation:

Section 327.39, F.S., provides for specific requirements for the safe operation of personal watercraft which include:

- 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.

Between 2005 and 2009, a total of 13 operators of a PWC who were between the ages of 14 and 16 were involved in reportable boating accidents, one of which occurred in a rented PWC.¹ 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.

Florida boating law requires that any person born after January 1, 1988, 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 FWC. Any course approved by the National Association of State Boating Law Administrators and the FWC 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.

Any person delivering instructional requirements for persons renting or leasing a PWC must have successfully completed a boater safety course approved by FWC delivered via home study, a classroom, or the Internet. The instructor is required to provide to individuals intending to operate the PWC the following requirements adopted by FWC rule 68D-36, F.A.C.:

- 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. A person who violates the provisions outlined in s. 327.54, F.S, for liveries, commits a misdemeanor of the second degree punishable up to 60 days in jail and a \$500 fine.

¹ Florida Fish and Wildlife Conservation Commission, *Senate Bill 370 Analysis* (April, 5, 2011) (on file in the Senate Committee on Environmental Preservation and Conservation)

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 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.

A PWC owner is prohibited from allowing a person under the age of 16 who does not possess a boating safety identification card in compliance with s. 327.395 F.S., or is born after January 1, 1988, to operate a PWC. A person who violates the provision commits a misdemeanor of the second degree punishable up to 60 days in jail and a \$500 fine.

Section 2 amends s. 327.54, F.S., increasing the requirements for persons or liveries delivering pre-ride or pre-rental instruction for a PWC. These persons would be required to attend in person and successfully complete, at their expense, a boating safety course approved by the National Association of Boating Law Administrators and the FWC.

The bill also adds a reference on the safe handling of PWC to the current FWC rule, Minimum Standards for Mandatory Boating Safety Courses, 68D-36, Florida Administrative Code (F.A.C.).

Section 3 provides an effective date of July 1, 2011.

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:

PWC operators who are not 16 years of age would not be allowed to operate a PWC. PWC owners would be prohibited from allowing persons under the age of 16 from operating the PWC. Further, owners of a PWC must ensure that any individual born after January 1, 1988, has completed a boating safety course and has a boater safety

identification card on their person before they are allowed to operate the PWC. Minimally, failure of the operator of the PWC fails to comply with these provisions 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 verify that they had been issued a valid boating safety identification card at the time of the citation but simply did not have it in their possession the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10.

A PWC owner who knowingly permits a person under the age of 16, or a person born after January 1, 1988, who does not possess a boating safety identification card commits a misdemeanor of the second degree punishable up to 60 days in jail and a \$500 fine.

According to the FWC, 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 FWC has stated that courses that meet this requirement cost an average of \$35 per person. Boating safety class providers will likely experience an increase in student enrollment.

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.