

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 Committee on Environmental Preservation and Conservation

BILL: SB 644

INTRODUCER: Senator Ring

SUBJECT: Boating Safety

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Pre-meeting
2.			CM	
3.			RC	

I. Summary:

SB 644 increases the age requirement for operating a personal watercraft on the waters of the state from 14 years of age to 16 years of age. The bill revises the requirements for boating safety identification cards by removing an exemption for a person who is accompanied in the vessel by a person who is otherwise exempt from the boating safety identification card requirements or who holds a valid identification card, is 18 years of age or older, and is attendant to the operation of the vessel and responsible for the vessel's safe operation.

II. Present Situation:

Personal Watercraft

The term "personal watercraft" is defined as "a vessel less than 16 feet in length which uses 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 the vessel, rather than in the conventional manner of sitting or standing inside the vessel."¹

In 2014, there were approximately 111,000 registered personal watercraft in the state, 96 reported injuries involving a personal watercraft, and five fatalities.² Of the 104 accidents that were reported, 34 were deemed to have been primarily caused by operator inexperience and, approximately, nine involved individuals under the age of 17.³

Florida law prohibits a person from operating a personal watercraft unless each person riding on or being towed behind such vessel is wearing a personal flotation device, other than an inflatable

¹ Section 327.02(33), F.S.

² Fish and Wildlife Conservation Commission (FWC), *2014 Boating Accidents Statistical Report*, <http://myfwc.com/boating/safety-education/accidents/> (last visited Jan. 21, 2016).

³ *Id.*

device, that is currently approved by the United States Coast Guard and used in accordance with the approval label.⁴ If a personal watercraft is equipped by the manufacturer with a lanyard type engine cutoff switch, a person operating such device must attach the lanyard to his or her person, clothing, or personal flotation device as is appropriate for the specific vessel.⁵

A person, except for an agent or employee of a fire or emergency rescue service while performing his or her official duties, may not operate a personal watercraft at any time between the hours from one-half hour after sunset to one-half hour before sunrise.⁶

A personal watercraft must at all times be operated in a reasonable and prudent manner.⁷ Maneuvers which unreasonably or unnecessarily endanger life, limb, or property, including, but not limited to, weaving through congested vessel traffic, jumping the wake of another vessel unreasonably or unnecessarily close to such other vessel or when visibility around such other vessel is obstructed, and swerving at the last possible moment to avoid a collision constitutes reckless operation of a vessel. The reckless operation of a vessel is a misdemeanor of the first degree punishable by a maximum of one year imprisonment or a \$1,000 fine.⁸

Any person under the age of 14 may not operate a personal watercraft on the waters of this state.⁹ Additionally, it is unlawful for the owner of any personal watercraft or any person having charge or control of a personal watercraft to authorize or knowingly permit the same to be operated by a person under the age of 14 years of age.¹⁰

Any facility that offers personal watercraft for lease, hire, or rent is required to ensure that all individuals intended to operate the personal watercraft have been properly trained in topics such as operator responsibility, navigation rules, aids to navigation, boating accidents, divers-down flag requirements, and manatee awareness.¹¹ Any person that receives such training is required to provide the facility with a written statement attesting that he or she received such instruction.¹²

The following violations are noncriminal infractions, punishable by a civil penalty of \$50:

- Operating a personal watercraft without wearing an appropriate personal flotation device or operating a personal watercraft with a person riding or being towed that is not wearing an appropriate personal flotation device.
- Operating a personal watercraft that is equipped with a lanyard type engine cutoff switch and not having such lanyard attached to his or her person, clothing, or personal flotation device.
- Operating a personal watercraft between the hours from one-half hour after sunset to one-half hour before sunrise.
- Operating a personal watercraft under the age of 14.¹³

⁴ Section 327.39(1), F.S.

⁵ Section 327.39(2), F.S.

⁶ Section 327.39(3), F.S.

⁷ Section 327.39(4), F.S.

⁸ Section 327.33(1), F.S.

⁹ Section 327.39(5), F.S.

¹⁰ Section 327.39(6)(a), F.S.

¹¹ Rule 68D-36.107, F.A.C.

¹² Section 327.39(6)(b), F.S.

¹³ Section 327.73(1)(p), F.S.

The owner of any personal watercraft or any person having charge or control of a personal watercraft who knowingly allows a person under 14 years of age to operate such personal watercraft, is guilty of a second degree misdemeanor, punishable by a maximum of 60 days imprisonment or a \$500 fine.¹⁴

Boating Safety Identification Cards

In order to operate a vessel of 10 horsepower or greater, Florida law requires anyone who was born on or after January 1, 1988, to have aboard the vessel photographic identification and an FWC-issued boater safety identification card.¹⁵ The card is proof that the holder has:

- Completed a commission-approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators;
- Passed a course equivalency examination approved by the commission; or
- Passed a temporary certificate examination developed or approved by the commission.¹⁶

The commission may appoint liveries, marinas, or other persons as its agents to administer the course or examinations and issue identification cards.¹⁷ An agent is required to charge a \$2 examination fee, which must be forwarded to the commission with proof of passage of the examination and may charge and keep a \$1 service fee.¹⁸

An identification card issued to a person who has completed a boating education course or a course equivalency examination is valid for life.¹⁹ A card issued to a person who has passed a temporary certification examination is valid for 12 months from the date of issuance.²⁰

A person is exempt from the boater safety identification card requirement if he or she:

- Is licensed by the United States Coast Guard to serve as master of a vessel;
- Operates a vessel only on a private lake or pond;
- Is accompanied in the vessel by a person who is exempt from this section or who holds an identification card in compliance with this section, is 18 years of age or older, and is attendant to the operation of the vessel and responsible for the safe operation of the vessel and for any violation that occurs during the operation of the vessel;
- Is a nonresident who has in his or her possession proof that he or she has completed a boater education course or equivalency examination in another state which meets or exceeds the Florida requirements;
- Is operating a vessel within 90 days after the purchase of that vessel and has available for inspection aboard that vessel a valid bill of sale;
- Is operating a vessel within 90 days after completing a commission-approved boater education course or passed a course equivalency examination approved by the commission and has a photographic identification card and a boater education certificate available for

¹⁴ Section 327.39(6), F.S.

¹⁵ Section 327.395(1), F.S.

¹⁶ *Id.*

¹⁷ Section 327.395(4), F.S.

¹⁸ *Id.*

¹⁹ Section 327.395(5), F.S.

²⁰ *Id.*

inspection as proof of having completed a boater education course. The boater education certificate must provide, at a minimum, the student's first and last name, the student's date of birth, and the date that he or she passed the course examination; or

- Is exempted by rule of the commission.²¹

The penalty for operating a vessel in violation of the boating safety identification card requirements is a noncriminal infraction, which is punishable by a civil penalty of \$50.²²

III. Effect of Proposed Changes:

SB 644 amends s. 327.39, F.S., to revise the minimum age requirement for operating a personal watercraft on the waters of this state from 14 years of age to 16 years of age.

The bill amends s. 327.395, F.S., to remove the exemption from the boating safety identification card requirements for a person who is accompanied in the vessel by a person who is otherwise exempt from the boating safety identification card requirements or who holds a valid identification card, is 18 years of age or older, and is attendant to the operation of the vessel and responsible for the vessel's safe operation.

The bill reenacts s. 327.73(1)(p), F.S., relating to noncriminal violations, to incorporate the amendments made to s. 327.39, F.S., which revises the minimum age requirement for operating a personal watercraft.

The bill takes effect July 1, 2016.

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.

²¹ Section 327.395(6), F.S.

²² Section 327.73(1)(s), F.S.

B. Private Sector Impact:

Removing the exemption from the boating safety identification card requirements for a person who is accompanied in the vessel by a person who is otherwise exempt from the boating safety identification card requirements or who holds a valid identification card, is 18 years of age or older, and is attendant to the operation of the vessel and responsible for the vessel's safe operation may increase the scope of individuals that are required to obtain a boating safety identification card. Therefore, additional individuals may be required to satisfy the educational requirements. As this number is indeterminate, the negative fiscal impact to the private sector is indeterminate.

C. Government Sector Impact:

The Fish and Wildlife Conservation Commission (FWC) will collect funds in fees from the additional individuals who will now take an educational course to satisfy the requirements for receiving a boating safety identification card. As the fee is nominal, this will likely have an insignificant positive fiscal impact to the FWC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.39 and 327.395.

This bill reenacts section 327.73 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.