

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 703 Vessels
SPONSOR(S): Workman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1454

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---------------------|-----------|--|
| 1) Highway & Waterway Safety Subcommittee | 10 Y, 3 N, As CS | Whittaker | Smith |
| 2) Economic Affairs Committee | 12 Y, 3 N | Whittaker | Pitts |

SUMMARY ANALYSIS

It is unlawful to operate a vessel in a careless manner. A person operating a vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person. The failure to operate a vessel in this manner constitutes careless operation. However, vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person in violation commits a noncriminal violation.

The bill revises the offense of careless operation of a vessel to pertain to operating a vessel so as not to endanger the life, limb, or property of *another* person *outside the vessel* or endanger the life, limb, or property of another person due to vessel *overloading* or *excessive speed*. A person in violation commits a noncriminal violation.

The bill also provides that the operator of a vessel, upon demonstrated compliance with safety equipment carriage and use requirements during a safety inspection initiated by a law enforcement officer, shall be issued a safety inspection decal signifying such compliance. The safety inspection decal, if displayed, must be located within 6 inches of the inspected vessel's properly displayed vessel registration decal and shall signify that the vessel has met the safety equipment carriage and use requirements at the time and location of the inspection. For non-motorized vessels which are not required to be registered, the safety inspection decal, if displayed, must be located on the forward half of the port side of the vessel above the waterline.

The bill further provides that law enforcement officers may not stop a vessel solely to inspect safety equipment carriage requirements when the vessel properly displays a valid safety inspection decal, created or approved by the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, except when there is reasonable suspicion that a violation of a safety equipment carriage or use requirements has occurred or is occurring. Nothing in this bill is intended to restrict vessel stops for any other lawful purpose.

The bill may have a negative, but insignificant impact on state funds. (See fiscal comments)

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Careless Operation of a Vessel

Section 327.33(2), F.S., provides that any person operating a vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person. The failure to operate a vessel in this manner constitutes careless operation. However, vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person who violates the provisions of this subsection commits a noncriminal violation.¹

Enforcement

Section 327.70(1), F.S., provides that this chapter and Chapter 328 shall be enforced by the Division of Law Enforcement of the Fish and Wildlife Conservation Commission and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer, all of whom may order the removal of vessels deemed to be an interference or a hazard to public safety, enforce the provisions of Chapters 327 – 328, Laws of Florida, or cause any inspections to be made of all vessels in accordance with Chapters 327 and 328, Laws of Florida.

The FWC or any other law enforcement agency may make any investigation necessary to secure information required to carry out and enforce the provisions of Chapter 327 and 328, Laws of Florida.²

Proposed Changes

Revising Careless Operation of a Vessel (Section 1)

The bill amends s. 327.33(2), F.S., revising the offense of careless operation of a vessel to pertain to operating a vessel so as not to endanger the life, limb, or property of *another person outside the vessel* or endanger the life, limb, or property of another person due to vessel *overloading* or *excessive speed*. A person in violation commits a noncriminal violation.

Vessel Inspections (Section 2)

The bill amends s. 327.70, F.S., providing that the operator of a vessel, upon demonstrated compliance with safety equipment carriage and use requirements during a safety inspection initiated by a law enforcement officer, shall be issued a safety inspection decal signifying such compliance. The safety inspection decal, if displayed, must be located within 6 inches of the inspected vessel's properly displayed vessel registration decal and shall signify that the vessel has met the safety equipment carriage and use requirements at the time and location of the inspection. For non-motorized vessels which are not required to be registered, the safety inspection decal, if displayed, must be located on the forward half of the port side of the vessel above the waterline.

The bill also provides that law enforcement officers may not stop a vessel solely to inspect safety equipment carriage requirements when the vessel properly displays a valid safety inspection decal, created or approved by the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, except when there is reasonable suspicion that a violation of a safety equipment carriage or use requirements has occurred or is occurring. Nothing in this bill is intended to restrict vessel stops for any other lawful purpose.

¹ s. 327.33(2), F.S.

² s. 327.70(4), F.S.

B. SECTION DIRECTORY:

- Section 1** Amends s. 327.33, F.S., relating to the reckless or careless operation of a vessel; providing that vessel overloading or excessive speed constitutes careless operation of a vessel.
- Section 2** Amends s. 327.70, F.S., providing for issuance and display of vessel safety inspection decals; prohibiting law enforcement officers from stopping certain vessels solely to inspect for compliance with specified safety requirements; providing an exception; providing applicability.
- Section 3** Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The bill may have an insignificant, but indeterminate impact on FWC with the issuance of safety inspection decals.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1, 2016, the Highway and Waterway Safety Subcommittee adopted a strike-all amendment to HB 703 and reported the bill favorably as a committee substitute. The strike-all amendment:

- Revises the offense of careless operation of a vessel to pertain to those persons or property outside the vessel but does allow for overloading and excessive speed to be considered as careless operation.
- Creates a safety inspection decal to be issued by FWC officers and others to vessels that indicates compliance with safety equipment carriage and use requirements.

This analysis is written to the Committee Substitute as it was reported out of the Highway & Waterway Safety Subcommittee.