

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 247 Vessel Registration  
**SPONSOR(S):** Ausley  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 632

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	12 Y, 0 N	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

### SUMMARY ANALYSIS

Currently, the Fish and Wildlife Conservation Commission (FWC) is authorized to accept an application for a vessel certificate of registration by electronic or telephonic means whereas for a motor vehicle certificate of registration the Department of Highway Safety and Motor Vehicles (DHSMV) is authorized to:

- Accept an application for motor vehicle registration by electronic or telephonic means; and
- Collect and use email addresses in lieu of the U.S. Postal Service for providing renewal notices.

Florida does not currently allow a motor vehicle or vessel owner or operator to display an electronic certificate of registration in lieu of a paper registration to law enforcement or any other official requesting to view the vessel registration.

The bill replaces “commission” with “department,” when referring to the state agency who is responsible for accepting vessel registration applications. This change recognizes that DHSMV is the state agency responsible for processing registration applications for vessels, not the FWC. Additionally, the bill allows DHSMV to issue an electronic certificate of registration in lieu of a paper registration and collect and use email addresses in lieu of U.S. mail for the purpose of providing renewal notices. This provision parallels the existing requirements governing the issuance of vessel and motor vehicle certificates of title.

The bill allows owners and operators of vessels to produce an electronic certificate of registration for inspection. The presentation of the electronic certificate of registration does not create consent to inspect any other information on the electronic device. This will enable owners and operators of vessels to produce an electronic certificate of registration (via cell phone, tablet, laptop, etc.) to law enforcement, or any other official requesting to view the vessel registration, rather than producing a paper copy.

The bill will have an indeterminate, but likely negative fiscal impact to DHSMV.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

###### Applying for Vessel Registration

A purchaser of a new or used vessel has 30 days to title and register the vessel.<sup>1</sup> During the 30-day period before registration, the owner must have proof of the date of purchase aboard the vessel.<sup>2</sup> Section 328.48, F.S., establishes the steps for applying for vessel registration in Florida. The Florida Department of Highway Safety and Motor Vehicles (DHSMV) is responsible for issuing vessel registrations.<sup>3</sup> Applications for titles and registrations must be filed at a county tax collector office.<sup>4</sup> Every vessel operated, used, or stored on the waters of Florida must be registered unless it is:

- A vessel operated, used, and stored exclusively on private lakes and ponds;
- A vessel owned by the United States Government;
- A vessel used exclusively as a ship's lifeboat; or
- A non-motor-powered vessel less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.<sup>5</sup>

Vessels that are required to be registered are classified for registration purposes according to a schedule set out in s. 328.72(1)(a), F.S. The certificate of registration must be pocket-sized and must be available for inspection on the vessel for which it is issued whenever such vessel is in operation.<sup>6</sup> Each certificate of registration issued must include (among other items):

- The numbers awarded to the vessel;
- The hull identification number;
- The name and address of the owner; and
- A description of the vessel.<sup>7</sup>

Boaters who do not have their vessel registration on board the vessel are in violation of s. 328.48(4), F.S., and may be issued a citation for \$50<sup>8</sup> by Fish and Wildlife Conservation Commission (FWC) law enforcement officers. In 2016, there were 931,450 vessels registered in Florida and 174,937 vessel and resource inspections by FWC law enforcement officers.<sup>9</sup> From 2014-2016, there were a total of 1,495 citations issued to boaters who failed to have their vessel registration certificate on board the vessel.<sup>10</sup> There were 299 citations issued in 2014, 450 citations issued in 2015, and 746 citations issued in 2016.<sup>11</sup> A decal signifying the year or years during which the certificate is valid must be furnished by DHSMV with each certificate of registration issued and affixed to the front of the vessel.<sup>12</sup> Pursuant to 33 C.F.R. § 174.25 (2017), each certificate of registration must be approximately 2½ by 3½ inches.

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<sup>1</sup> Section 328.46(1), F.S.

<sup>2</sup> Section 328.46(1), F.S.

<sup>3</sup> Section 328.48(3), F.S.

<sup>4</sup> Section 328.48(1)(a), F.S.

<sup>5</sup> Section 328.48(2), F.S.

<sup>6</sup> Section 328.48(4), F.S.

<sup>7</sup> Section 328.48(4), F.S.

<sup>8</sup> Section 327.73(1)(bb), F.S.

<sup>9</sup> Florida Fish and Wildlife Conservation Commission, Agency Analysis of 2018 House Bill 247, p. 3 (November 14, 2017).

<sup>10</sup> Email from Heather Turner, Deputy Legislative Affairs Director, Fish and Wildlife Conservation Commission, RE: question regarding citations (November 3, 2017).

<sup>11</sup> *Id.*

<sup>12</sup> Section 328.48(5), F.S.

### Electronic Certificate of Registration and Title in Florida

The Fish and Wildlife Conservation Commission (FWC) is authorized to accept an application for a vessel certificate of registration by electronic or telephonic means.<sup>13</sup> For a motor vehicle certificate of registration DHSMV is authorized to:

- Accept an application for motor vehicle registration by electronic or telephonic means; and
- Collect and use email addresses in lieu of the U.S. Postal Service for providing renewal notices.<sup>14</sup>

By comparison, for a vessel certificate of title, DHSMV can accept an application for certificate of title for vessels by electronic or telephonic means,<sup>15</sup> as well as issue an electronic certificate of title in lieu of printing a paper title,<sup>16</sup> and collect and use email addresses instead of the U.S. Postal Service as a method of renewal notification.<sup>17</sup> According to DHSMV, some of the benefits to an electronic title include:

- Reduction of title fraud;
- Reduction of title paper usage;
- Faster notification of lien satisfactions;
- Reduction in storage of title documents; and
- Access to expedited title printing.<sup>18</sup>

### Digital Proof Documents

Florida does not currently allow a motor vehicle or vessel owner or operator to display an electronic registration in lieu of a paper registration to law enforcement or any other official requesting to view the vessel registration. However, Florida and other states are in the process of implementing various digital proof documents.

### *Electronic Lien and Title Program*

There are 23 states, including Florida, that use the Electronic Lien and Title (ELT) Program.<sup>19</sup> In Florida, the ELT Program allows lienholders to reduce the handling, storage and mailing costs associated with paper titles by replacing them with electronic titles.<sup>20</sup> An electronic title is a title that exists only in electronic form on the DHSMV database.<sup>21</sup> As of January 1, 2013, Florida's participation in the ELT Program became mandatory for all dealers, finance companies, or entities that are in the business of financing vehicles, mobile homes, or vessels in the State of Florida.<sup>22</sup>

### *Electronic Hunting and Fishing License*

The Florida FWC permits individuals with hunting and fishing licenses several options in lieu of producing their hunting and fishing license in paper form.<sup>23</sup> An individual may look up his or her authorization number on the FWC "Fish Hunt Florida" application or provide a digital copy of the hunting or fishing license generated by the FWC application or through a GoOutdoorsFlorida.com account.<sup>24</sup> However, the individual must still have a physical copy of his or her state ID or driver license.<sup>25</sup>

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<sup>13</sup> Section 328.80, F.S.

<sup>14</sup> Section 320.95, F.S.

<sup>15</sup> Section 328.30(1), F.S.

<sup>16</sup> Section 328.30(2), F.S.

<sup>17</sup> Section 328.30(3), F.S.

<sup>18</sup> Department of Highway Safety and Motor Vehicles, *Electronic Lien and Titles*, available at <https://www.flhsmv.gov/motor-vehicles-tags-titles/electronic-lien-titles/> (last visited October 12, 2017).

<sup>19</sup> Simply ELT, available at <http://www.simplyelt.com/index.html> (last visited November 8, 2017).

<sup>20</sup> Department of Highway Safety and Motor Vehicles, *Electronic Lien and Titles*, available at <https://www.flhsmv.gov/motor-vehicles-tags-titles/electronic-lien-titles/> (last visited November 8, 2017).

<sup>21</sup> *Id.*

<sup>22</sup> Sections 319.27(7) & 328.15(5)(b), F.S.

<sup>23</sup> Florida Fish and Wildlife Conservation Commission Office of Licensing & Permitting, *Acceptance of Electronic Device as Valid Licensure* (on file with the House Transportation & Infrastructure Subcommittee).

<sup>24</sup> *Id.*

<sup>25</sup> Section 379.354(2)(c), F.S.

### *Electronic Motor Vehicle Registration*

In 2017, Michigan enacted HB 4013<sup>26</sup> authorizing the owner or operator of a vehicle to display an electronic registration upon the request of law enforcement.<sup>27</sup> It also authorizes law enforcement to require the owner or operator to electronically forward the electronic copy of the registration certificate so that the law enforcement officer can view the electronic copy of the registration certificate in a safe setting. The law asserts that the state is not liable for damage or loss of an electronic device that occurs as a result of law enforcement viewing an electronic copy of the registration,<sup>28</sup> and permits a digital photograph of a valid registration certificate.<sup>29</sup>

### **Proposed Changes**

The bill amends s. 328.80, F.S., to replace “commission” with “department,” when referring to the state agency responsible for accepting vessel registration applications. This acknowledges that DHSMV is the state agency responsible for processing registration applications for vessels, not the Fish and Wildlife Conservation Commission. Additionally, the bill amends s. 328.80, F.S., to allow DHSMV to issue an electronic certificate of registration in lieu of a paper registration and collect and use email addresses in lieu of U.S. mail for purpose of providing renewal notices. The amended language parallels the current requirements governing the issuance of vessel and motor vehicle certificates of title.<sup>30</sup>

The bill amends s. 328.48(4), F.S., to allow owners and operators of vessels to produce an electronic certificate of registration for inspection. Furthermore, the presentation of the electronic certificate of registration does not create consent for inspection of any other information on the electronic device. This will enable owners and operators of vessels to produce an electronic certificate of registration (via cell phone, tablet, laptop, etc.) to law enforcement, or any other official requesting to view the vessel registration, rather than producing a paper copy.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 328.80, F.S., relating to transactions by electronic or telephonic means.

**Section 2:** Amends s. 328.48, F.S., relating to vessel registration, application, certificate, number, decal, duplicate certificate.

**Section 3:** Provides an effective date of July 1, 2018.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

DHSMV will likely have one-time start-up costs to create the program for the electronic vessel certificates of registration.

Additionally, DHSMV’s Motorist Modernization initiative, which is an ongoing information technology project to replace existing driver license and motor vehicle information systems, may be impacted because of the programming and implementation hours expended for this bill.

<sup>26</sup> HB 4013 (2017), available at <https://legiscan.com/Mi/text/HB4013/2017> (last visited October 12, 2017).

<sup>27</sup> Section 257.223(1), MCL.

<sup>28</sup> Section 257.223(2), MCL.

<sup>29</sup> Section 257.223(3), MCL.

<sup>30</sup> Sections 328.30, 319.40, F.S.

**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:

Not applicable.

2. Other:

There may be concerns with the occurrence of search and seizure violations by law enforcement officers who view anything on the vessel owner or operator's electronic device other than the registration. According to the Supreme Court of Florida, law enforcement may not view a person's electronic device without permission or a search warrant.<sup>31</sup>

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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<sup>31</sup> *Smallwood v. State*, 113 So. 3d 724 (Fla. 2013).