

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 701 Boating and Vessel Safety
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee, McFarland
TIED BILLS: **IDEN./SIM. BILLS:** SB 1650

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	18 Y, 0 N, As CS	Neuffer	Keating
2) Environment, Agriculture & Flooding Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, and conserves the fish and wildlife resources within the state. Within the FWC, the Division of Law Enforcement enforces boating rules and regulations, coordinates boating safety campaigns and education, and investigates boating accidents.

Any person born on or after January 1, 1988, who wishes to operate a vessel powered by a motor 10 horsepower or greater must complete a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA). The NASBLA provides minimum standards which are reviewed every five years and apply to all basic boating courses across the U.S. and its territories.

In 2018, federal law went into effect requiring operators of vessels less than 26 feet in length and with three or more horsepower to employ an engine cut-off switch if installed on the vessel. Florida has a similar law but with regard only to jet skis.

The bill may be cited as "Ethan's Law."

The bill requires that FWC include as components in boating safety education campaigns and education material, as appropriate, the following:

- The dangers of passengers sitting in areas not designed and designated for seating.
- The operation of a boat with persons in the water nearby.
- The dangers of starting a vessel with the engine in gear.
- The risks of leaving a vessel running while passengers are boarding or disembarking.
- The proper use and benefits of an engine cut-off switch for motorboats and personal watercrafts.

The bill also requires that operators of vessels used in the instruction of water sports or activities use an engine cut-off switch and wear an operative engine cut-off switch link when people participating in the water sport or activity are in the water.

The bill does not have an impact on state or local government revenues. The bill does not have an impact on local government expenditures. The bill may have an insignificant fiscal impact on state government expenditures.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, and conserves the fish and wildlife resources within the state.¹ The Division of Law Enforcement within the FWC is tasked with the enforcement of boating rules and regulations, coordinating boating safety campaigns and education, and investigating boating accidents.

In 2020, there were 836 boating accidents in the state of Florida.² Of those accidents, 79 resulted in fatalities, with 69% of operators having no formal boater education.³

Any person born on or after January 1, 1988, must complete a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA) in order to operate a vessel powered by a motor of 10 horsepower or greater.⁴ Any operator required by statute to complete the boating safety education course must carry a boating education ID card and a photo ID while operating any qualifying vessel.⁵

NASBLA provides minimum standards that apply to all basic boating courses in the U.S. and its territories.⁶ The minimum standards are reviewed every five years with the purpose of establishing a national standard for all courses across the nation. Under current NASBLA standards, courses must describe state-required equipment, such as engine cut-off lanyards or bailing devices.⁷ Courses must additionally cover boat operation, trip planning, and emergency preparation.⁸ There are several courses within the state of Florida which meet NASBLA's 8-hour instruction requirement, ranging from no cost to \$50.⁹ A boating safety education course card is valid for life unless it was obtained through a temporary examination, in which instance it is valid for only 90 days.¹⁰

Florida law specifies certain equipment and lighting standards for all vessels operated in the waters of the state, and identifies the equipment which must be carried, stored, maintained, and used in accordance with current United States Coast Guard (USCG) safety equipment requirements.¹¹

Federal law requires any individual operating a covered recreational vessel¹² to use an engine cut-off switch link while operating on plane or above displacement speed.¹³ Any manufacturer, distributor, or dealer of propulsion machinery associated with starting controls on a covered recreational vessel must equip such vessel with an engine cut-off switch and an engine cut-off switch link.¹⁴ Engine cut-off switches are normally coiled bungee cords but can also be electronic wireless devices. They operate to

¹ Art. IV, s. 9, Fla. Const.

² Florida Fish and Wildlife Conservation Commission, *2020 Boating Accident Statistical Report*, 2020, <https://myfwc.com/media/26463/2020-basr-booklet.pdf> (last visited January 13, 2022).

³ *Id.*

⁴ See s. 327.395(6)(a)-(g), F.S., (listing exemptions from the boating safety education course requirement).

⁵ S. 327.395(2), F.S.

⁶ See ANSI/NASBLA, *103-2016: Basic Boating Knowledge – Power* (November 18, 2015).

⁷ See National Association of State Boating Law Administrators, *NASBLA Policy: Basic Boating Education Course Approval* (September 13, 2016) (describing the minimum educational requirements of a boating course for NASBLA approval).

⁸ *Id.*

⁹ FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited January 4, 2022).

¹⁰ S. 327.395(5), F.S.

¹¹ S. 327.50, F.S.

¹² See 46 U.S.C. § 4312(e)(1) (defining covered recreational vessel as a recreational vessel that is less than 26 feet overall in length and capable of developing 115 pounds or more of static thrust); see 46 U.S.C. § 4312(e)(6) (defining static thrust as the forward or backwards thrust developed by propulsion machinery while stationary).

¹³ 46 U.S.C. § 4312(b).

¹⁴ 46 U.S.C. § 4312(a).

shut off the engine if the operator is separated from the operating area, reducing the dangers created by a runaway vessel or impact with the spinning propeller.¹⁵ A person in violation of this law is liable for a civil penalty to the United States Government of not more than \$100 for the first offense,¹⁶ \$250 for the second offense,¹⁷ and \$500 for any subsequent offense.¹⁸ Although the law did not go into effect until 2018, most U.S. boat manufacturers had already voluntarily installed engine cut-off switches on their boats.¹⁹ Exceptions are provided for vessels if the main helm is within an enclosed cabin, or if the vessel is not required to have an engine cut-off switch.²⁰

Florida's current law provides a similar mandate but only for personal watercraft, commonly identified as jet skis.²¹

Effect of Proposed Changes

The bill expands the list of topics that must be covered in FWC boating safety education campaigns and commission materials to include:

- The dangers of passengers sitting in areas not designed and designated for seating.
- The operation of a boat with persons in the water nearby.
- The dangers of starting a vessel with the engine in gear.
- The risks of leaving a vessel running while passengers are onboarding or disembarking.
- The proper use and benefits of an engine cut-off switch for motorboats and personal watercrafts.

The bill also requires the operator of a vessel used in a water sport or activity which causes participants to be in the water to use an engine cutoff switch and wear an operative link to the switch when participants are in the water. The bill does not provide a legal penalty for failure to comply with the bill.

B. SECTION DIRECTORY:

- Section 1** Provides a short title.
- Section 2** Amends s. 327.395, F.S.; relating to boating safety education.
- Section 3** Amends s. 327.50, F.S.; relating to vessel safety regulations.
- Section 4** Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

¹⁵ USCG, *Engine Cut-Off Switches*, *supra*.

¹⁶ 46 U.S.C. § 4311(c)(1).

¹⁷ 46 U.S.C. § 4311(c)(2).

¹⁸ 46 U.S.C. § 4311(c)(3).

¹⁹ United States Coast Guard, *Engine Cut-Off Switches*, <https://uscgboating.org/recreational-boaters/engine-cut-off-devices.php> (last visited January 4, 2022).

²⁰ 46 U.S.C. § 4312(b)(2).

²¹ S. 327.39, F.S.; see s. 327.02(37) (defining "personal watercraft" 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).

2. Expenditures:

The bill appears to have an insignificant impact to FWC expenditures necessary to incorporate the required items into education campaigns and materials.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motorized vessels that are not covered under federal law and which are used for the instruction of water sports and activities will be required to have an engine cut-off switch installed if not already equipped with one.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 18, 2022, the Tourism, Infrastructure & Energy Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Provided the act be designated "Ethan's Law."
- Clarified that the operator of a vessel used in the instruction of a water sport or activity must use an engine cutoff switch and operative link.

This analysis is drafted to the committee substitute as approved by the Tourism, Infrastructure & Energy Subcommittee.