

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1103 Boating-restricted Areas
SPONSOR(S): Tramont
TIED BILLS: **IDEN./SIM. BILLS:** SB 1314

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture, Conservation & Resiliency Subcommittee	16 Y, 0 N	Mamontoff	Moore
2) Local Administration, Federal Affairs & Special Districts Subcommittee			
3) Infrastructure Strategies Committee			

SUMMARY ANALYSIS

The Fish and Wildlife Conservation Commission (FWC), created by Article IV, section 9, of the Florida Constitution, is the agency responsible for regulating boating in the state. This responsibility includes enforcing boating rules and regulations, and managing public water and access to the waters.

Boating-restricted areas, which restrict vessel speeds and traffic, may be established on the waters of the state for any purpose necessary to protect the safety of the public, taking into account boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards, as well as seagrass protection on privately-owned submerged lands.

The bill allows a municipality or county to adopt an ordinance that establishes a slow speed, minimum wake boating-restricted area, if the area is within 500 feet of any private or public marina pumpout.

The bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC), created by Article IV, section 9, of the Florida Constitution, is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources. FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Senate.¹ Pursuant to its constitutional authority, FWC exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.

FWC is also the agency responsible for regulating boating in the state. Through its Division of Law Enforcement, FWC manages the state's waterways to ensure boating safety for residents and visitors to the state.² This responsibility includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public water and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.³

Boating Restricted Areas

Boating-restricted areas, which restrict vessel speeds and traffic, may be established on the waters of the state for any purpose necessary to protect the safety of the public, taking into account boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards, as well as seagrass protection on privately-owned submerged lands.⁴

Local governments are generally prohibited from regulating any vessel upon the Florida Intercoastal Waterway.⁵ However, local governments have been delegated authority to establish certain boating-restricted areas by ordinance, including in the portion of the Florida Intercoastal Waterway that is within their jurisdiction.⁶

A municipality or county may adopt an ordinance that establishes an idle speed, no wake boating-restricted area, if the area is:

- Within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet in width or within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet in width.
- Within 500 feet of fuel pumps or dispensers at any marine fueling facility that sells motor fuel to the general boating public on waterways more than 300 feet in width or within 300 feet of the fuel pumps or dispensers at any licensed terminal facility that sells motor fuel to the general boating public on waterways not exceeding 300 feet in width.

¹ Article IV, s. 9, FLA. CONST.

² Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited March 22, 2023).

³ FWC, Law Enforcement, <https://myfwc.com/about/inside-fwc/le/> (last visited Feb. 23, 2023). See s. 327.70(1) and (4), F.S.

⁴ Section 327.46(1), F.S.

⁵ Section 327.60(2)(c), F.S.; "Florida Intracoastal Waterway" means the Atlantic Intracoastal Waterway, the Georgia state line north of Fernandina to Miami; the Port Canaveral lock and canal to the Atlantic Intracoastal Waterway; the Atlantic Intracoastal Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to Fort Myers; the St. Johns River, Jacksonville to Sanford; the Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to Anclote open bay section, using the Gulf of Mexico; the Gulf Intracoastal Waterway, Carrabelle to the Alabama state line west of Pensacola; and the Apalachicola, Chattahoochee, and Flint Rivers in Florida. Section 327.02(15), F.S.

⁶ Section 327.46(1), F.S.

- Inside or within 300 feet of any lock structure.⁷

A municipality or county may adopt an ordinance that establishes a slow speed, minimum wake boating-restricted area, if the area is:

- Within 300 feet of any bridge fender system.
- Within 300 feet of any bridge span presenting vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet.
- On a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline.
- On a lake or pond of less than 10 acres in total surface area.
- Within the boundaries of a permitted public mooring field and a buffer around the mooring field of up to 100 feet.⁸

A municipality or county may adopt an ordinance that establishes a vessel-exclusion zone if the area is:

- Designated as a public bathing beach or swim area, except that such areas may not be created on waters that include any portion of the Florida Intracoastal Waterway or that are within 100 feet of the marked channel of the Florida Intracoastal Waterway.
- Within 300 feet of a dam, spillway, or flood control structure.⁹

It is unlawful for any person to operate a vessel in a prohibited manner or to carry on any prohibited activity within a boating-restricted area which has been clearly marked by regulatory markers as an authorized restricted area.¹⁰ These restrictions do not apply in the case of an emergency or to a law enforcement, firefighting, or rescue vessel owned or operated by a government entity.¹¹

Effect of the Bill

The bill allows a municipality or county to adopt an ordinance that establishes a slow speed, minimum wake boating-restricted area if the area is within 500 feet of any private or public marina pumpout.

B. SECTION DIRECTORY:

Section 1. Amends s. 327.46, F.S., relating to boating-restricted areas.

Section 2. Reenacts s. 327.41, F.S., relating to uniform waterway regulatory markers.

Section 3. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁷ Section 327.46(1)(b)1., F.S.

⁸ Section 327.36 (1)(b)2., F.S.

⁹ Section 327.46(1)(b)3., F.S.

¹⁰ Section 327.46(3), F.S.

¹¹ Section 327.46(4), F.S.

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. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.