

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 Environment and Natural Resources

BILL: SB 30

INTRODUCER: Senator Garcia

SUBJECT: Boating Safety

DATE: December 5, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Carroll | Rogers | EN | Pre-meeting |
| 2. | | | TR | |
| 3. | | | FP | |

I. Summary:

SB 30 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to issue a new or replacement identification card or driver license with a lifetime boating safety identification card symbol if an applicant shows proof that he or she was issued a boating safety identification card. The applicant will not be charged for inclusion of the symbol.

The bill requires a copy of an applicant’s Florida boating safety identification card to be submitted with an application for an identification card or driver license.

The bill requires a person convicted of boating under the influence and one or more criminal boating safety violations to maintain an insurance policy insuring against loss from liability for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of a vessel. Operating a vessel without the requisite insurance is a second-degree misdemeanor.

Under current law, a person born before January 1, 1988 is not required to possess a Florida boating safety identification card or similar certification when operating a vessel powered by 10 horsepower or more. The bill expands the boating safety identification card or similar certification requirement by removing the age exemption, effective July 1, 2026.

The bill requires the boating safety education course or temporary certificate exam to include information on boating under the influence and human trafficking awareness.

The bill also adds mandatory boating safety education course requirements for persons convicted of certain boating safety violations, including the addition of a four-hour mandatory boating safety education course for specified violations. The bill authorizes FWC to adopt rules necessary to implement these changes.

II. Present Situation:

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.¹ Chapter 327, F.S., concerning vessel safety, is enforced by FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.²

The Division of Law Enforcement manages the state's waterways to ensure boating safety for Florida residents and visitors.³ This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.⁴

Boating Safety Education and Identification Cards

A person operating a vessel powered by a motor of 10 horsepower or greater must possess photographic identification and a Florida boating safety identification card; a state-issued identification card or driver license indicating possession of the boating safety identification card; or photographic identification and a temporary certificate issued or approved by FWC, an International Certificate of Competency, a boating safety card or certificate from another state or U.S. territory, or a Canadian Pleasure Craft Operator Card.⁵ A person is exempt from this requirement if he or she:

- Was born before January 1, 1988;⁶
- Is licensed by the U.S. Coast Guard to serve as master of a vessel or has previously obtained this license, provides proof to FWC, and requests that a boating safety identification card be issued in his or her name;
- Operates a vessel only on a private lake or pond;
- Is accompanied by an adult who meets boating safety requirements and who is attendant to the operation of the vessel and responsible for safe operation of the vessel;
- Is a nonresident who possesses photographic identification and proof of completion of a boating safety education course or examination that meets or exceeds the minimum requirements established by the National Association of State Boating Law Administrators;
- Operates a vessel within 90 days after purchase and possesses the bill of sale;

¹ FLA. CONST. art. IV, s. 9.

² Section 327.70(1), F.S.; *see s. 943.10(1), F.S.*, which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

³ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Nov. 6, 2023).

⁴ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Nov. 6, 2023). *See s. 327.70(1) and (4), F.S.*

⁵ Section 327.395(1), (2), F.S.

⁶ Section 327.395(1), F.S.

- Operates a vessel within 90 days after completing a boating safety education course and has a photographic identification card and a boating safety education certificate available for inspection; or
- Is exempted by FWC rule.⁷

A Florida boating safety identification card is issued after successful completion of a boating safety education course approved by FWC.⁸ The card is valid for a person's life.⁹ A temporary certificate requires passing an FWC-approved examination and is valid for 90 days after the date of issuance.¹⁰ The FWC-approved boating safety education course or temporary certificate examination must contain information regarding:

- Diving vessels, awareness of divers in the water, divers-down warning devices, and navigation around divers;
- The danger associated with:
 - A passenger riding on a vessel area not designed and designated for seating,
 - A passenger falling overboard,
 - Operating a vessel near a person in the water,
 - Starting a vessel with the engine in gear, and
 - Leaving the vessel running when a passenger is boarding or disembarking; and
- The proper use and lifesaving benefits of an engine cutoff switch for motorboats and personal watercraft.¹¹

A lifetime boating safety identification cardholder may pay a \$1 fee to have a boating safety identification card symbol added to his or her identification card or driver license when the identification card or driver license is being issued.¹² If a person replaces his or her identification card or driver license before its expiration date, the cardholder may pay a \$2 fee to have the symbol added to the identification card or driver license. If the sole purpose of replacing the identification card or driver license is to add the symbol, the replacement identification card or driver license must be issued without payments of the credential replacement fees.¹³ As of September 2023, DHSMV has issued 12,176 driver licenses and 147 identification cards with the lifetime boating safety identification card symbol.¹⁴

⁷ Section 327.395(6), F.S.

⁸ Section 327.395(3), F.S.

⁹ Section 327.395(5), F.S.

¹⁰ Section 327.395(3), (5), F.S.

¹¹ Section 327.395(4), F.S.

¹² Sections 322.051(8) and 322.14(1)(e), F.S.

¹³ *Id.* The fee for a replacement identification card or driver license is \$25. Section 322.21(1)(e)-(f), F.S.

¹⁴ Department of Highway Safety and Motor Vehicles, *2024 Agency Legislative Bill Analysis: SB 30, 2*, (on file with the Senate Committee on Environment and Natural Resources).

A boating safety education course is mandatory for persons convicted of certain boating safety violations. A person convicted of a criminal boating safety violation, of a noncriminal boating safety infraction if it resulted in a reportable boating accident, or of two noncriminal infractions¹⁵ occurring within a 12-month period must:

- Enroll in, attend, and successfully complete, at his or her own expense, an FWC-approved classroom or online boating safety course;
- File with FWC within 90 days proof of successful completion of the course;
- Refrain from operating a vessel until he or she has filed proof of successful completion of the course with FWC; and
- Pay a \$500 fine.¹⁶

III. Effect of Proposed Changes:

Sections 1 and 3 amend ss. 322.051 and 322.14, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV) to issue a new or replacement identification card or driver license, as applicable, which includes a symbol representing a lifetime boating safety identification card upon the applicant's presentation of his or her Florida boating safety identification card or a receipt of confirmation by the Florida Fish and Wildlife Conservation Commission (FWC) that the applicant was issued a Florida boating safety identification card.

DHSMV shall include the lifetime boating safety identification card symbol on a new or renewal identification card or driver license at no charge to the applicant. The bill removes the requirement that an applicant must pay an additional \$1 fee to DHSMV for inclusion of a symbol representing the lifetime boater safety identification card on an identification card or driver license.

The bill also removes language allowing a boating safety cardholder to replace his or her identification card or driver license before its expiration date with a card that includes his or her status upon surrender of a current identification card or driver license, payment of a \$2 fee, and presentation of the person's lifetime boating safety identification card. The bill deletes the fee exemption for replacement identification cards or driver licenses if the sole purpose of the replacement identification card or driver license is the inclusion of the applicant's status as a lifetime boating safety cardholder.

Section 2 amends s. 322.08, F.S., to require that each application for an identification card or driver license must indicate whether the applicant has obtained a Florida boating safety identification card and, if so, a copy of such card must be submitted with the application. The bill authorizes FWC to provide DHSMV with any record it has of the applicant completing an approved boating safety education course or having been issued a Florida boating safety identification card.

¹⁵ The noncriminal boating safety infractions included relate to careless operation; water skiing, aquaplaning, parasailing, and similar activities; interference with navigation; boating-restricted areas and speed limits; required safety equipment, lights, and shapes; navigation rules; personal watercraft; boater safety education; operation of overloaded or overpowered vessels; divers-down warning devices; adequate mufflers on an airboat; display of a flag on an airboat; carelessly causing seagrass scarring; and protection zones for springs. Sections 327.731(1) and 327.73(1), F.S.

¹⁶ Section 327.731(1), F.S.

Section 4 amends s. 327.35, F.S., to provide that, notwithstanding any sentence or fine imposed by law or the court, a person convicted of boating under the influence and one or more criminal violations under this chapter, whether arising from the same incident or within the preceding 12 months, must maintain an insurance policy insuring against loss from liability for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of a vessel. Such insurance must contain limits not less than \$100,000 for bodily injury liability or death and \$50,000 for property damage. The bill provides that a person who operates a vessel without the requisite insurance commits a misdemeanor of the second degree, punishable by a fine of no more than \$500 or imprisonment of no more than 60 days.

Section 5 amends s. 327.395, F.S., to require that, effective July 1, 2026, a person born before January 1, 1988 who operates a vessel powered by a motor of 10 horsepower or greater must have in his or her possession aboard the vessel a Florida boating safety identification card or similar certification, unless otherwise exempted by the boating safety education statute. The bill is an expansion of current law, which does not require a person born before January 1, 1988 to possess a Florida boating safety identification card or similar certification.

The bill also adds that the FWC-approved boating safety education course or temporary certificate examination must include components regarding the danger associated with boating under the influence and human trafficking awareness.

The bill makes technical changes.

Section 6 amends s. 327.731, F.S., to require that a person enroll in, attend, and successfully complete at his or her own expense, one of the following mandatory boating safety education courses, as applicable:

- For a person convicted of any two noncriminal infractions within a 24-month period, the boating safety education course provided for in the boating safety statute.
- For a person convicted of a criminal violation, of a noncriminal boating safety infraction if the infraction resulted in a reportable boating accident, or of three or more noncriminal infractions within a 36-month period, the boating safety education course and a four-hour course that includes information regarding all of the following:
 - The boating laws of Florida;
 - Causes and prevention of boating accidents;
 - The importance of wearing personal flotation devices;
 - The use of common sense and common courtesy while operating a vehicle; and
 - Operating a vehicle defensively.

The bill deletes the requirement that the mandatory boating safety education course must be a classroom or online course. The bill adds that the term “convicted” is defined the same as “conviction,” which is defined as a finding of guilt, or the acceptance of a plea of guilty or nolo contendere, regardless of whether adjudication was withheld or whether imposition of sentence was withheld, deferred, or suspended.

The bill provides that a person who operates a vessel on the waters of this state in violation of the mandatory boating safety education requirements commits a misdemeanor of the second degree.

Current statutory language provides that the person is guilty of a misdemeanor of the second degree.

The bill authorizes FWC to adopt rules necessary to implement the mandatory boating safety education for violators.

The bill makes technical changes.

Section 7 amends s. 119.0712, F.S., to make a conforming change.

Section 8 reenacts s. 327.54(4), F.S., for the purpose of incorporating the amendment made by this bill to the law governing boating safety education in a reference thereto.

Section 9 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will cause a fiscal revenue loss for the Department of Highway Safety and Motor Vehicles (DHSMV), because of the loss of the fee for adding the lifetime boating safety identification card symbol to identification cards and driver licenses. DHSMV collected \$1,453 in the Highway Safety Operating Trust Fund in fiscal year 2022-2023 from customers who requested just the lifetime boater safety designation.¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 119.0712, 322.051, 322.08, 322.14, 327.35, 327.395, 327.54, and 327.731 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁷ Department of Highway Safety and Motor Vehicles, *2024 Agency Legislative Bill Analysis: SB 30, 4* (on file with the Senate Committee on Environment and Natural Resources).