

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 1388

INTRODUCER: Senator Trumbull

SUBJECT: Vessels

DATE: March 24, 2025

REVISED: _____

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

I. Summary:

SB 1388 is the “Boater Freedom Act.” The bill provides that “probable cause” does not include any action to make a safety or marine sanitation equipment inspection.

The bill allows a law enforcement officer to board a vessel if the owner or operator is not on the vessel, as long as the officer makes a good faith effort to avoid boarding the vessel. An officer may board or perform a vessel stop when the officer has probable cause or knowledge to believe that a violation of vessel safety laws has occurred or is occurring. The bill provides that a violation of safety and marine sanitation equipment requirements may only be considered a secondary offense.

The bill requires the Florida Fish and Wildlife Conservation Commission and the Florida Department of Highway Safety and Motor Vehicles to create a “Florida Freedom Boater” safety inspection decal that will be issued following the demonstration of compliance with safety equipment carriage and use requirements.

The bill also contains the “Watercraft Energy Source Freedom Act,” which prohibits a state agency, municipality, government entity, or county from restricting the use or sale of a watercraft based on the energy source used to power the watercraft.

The bill provides that facilities designated as Clean Marine Manufacturers will be eligible for a discount on sovereignty submerged land leases and a waiver of extended-term lease surcharges. It authorizes funding for the construction and maintenance of parking for boat-hauling vehicles and trailers.

The bill provides that if any provision of this act or its application to any person or circumstance is held invalid, the invalidity must not affect the remaining provisions or applications of this act.

II. Present Situation:

Vessel Safety and Marine Sanitation Equipment

The owners and operators of every vessel on waters of this state¹ are required to carry, store, maintain, and use safety equipment in accordance with current U.S. Coast Guard safety equipment requirements, unless expressly exempted by the Florida Fish and Wildlife Conservation Commission (FWC).² Equipment required by the U.S. Coast Guard for recreational vessels includes engine cut-off switches, personal flotation devices, visual distress signals, fire extinguishers, and backfire flame controls.³

Additionally, Florida law prohibits a person from operating a vessel less than 26 feet in length unless all children under the age of six are wearing a personal flotation device.⁴ A vessel must be equipped with properly serviceable lights and shapes required by the navigation rules and prohibits the use of sirens or flashing, occulting, or revolving lights on any vessel, except as expressly allowed.⁵ Florida law also requires the operator of a vessel used in the instruction of a water sport or activity to use an engine cut-off switch and wear an operative link to the switch when a person participating in the water sport or activity is in the water.⁶

The discharge of raw sewage from any vessel, including houseboats and floating structures, into Florida waters is prohibited.⁷ Every vessel on waters of this state that is 26 feet or more in length with an enclosed cabin that includes berthing facilities must be equipped with a toilet.⁸ Every permanent toilet must be properly attached to the appropriate U.S. Coast Guard certified or labeled marine sanitation device.⁹ Floating structures with enclosed living spaces that include berthing facilities, or working spaces with public access, as well as houseboats, must be equipped with at least one permanently installed toilet connected to a U.S. Coast Guard certified or labeled Type III marine sanitation device.¹⁰

¹ “Waters of this state” are defined as any navigable waters of the U.S. within the territorial limits of this state, the marginal sea adjacent to this state, and the high seas when navigated as a part of a journey or ride to or from the shore of this state, and all the inland lakes, rivers, and canals under the jurisdiction of this state. Section 327.02(48), F.S.

² Section 327.50(1)(a), F.S.

³ U.S. Coast Guard, *A Boater’s Guide to the Federal Requirements for Recreational Boats* (2023), available at <https://uscgboating.org/assets/1/AssetManager/Boaters-Guide-to-Federal-Requirements-for-Recreational-Boats-20231108.pdf>.

⁴ Section 327.50(1)(b), F.S.

⁵ Section 327.50(2), (3), F.S.

⁶ Section 327.50(4), F.S.

⁷ Section 327.53(4)(a), F.S.

⁸ Section 327.53(1), F.S.

⁹ *Id.*

¹⁰ Section 327.53(2), (3), F.S. If the toilet is simultaneously connected to both a Type III marine sanitation device and to another approved marine sanitation device, the valve or other mechanism selecting between the two marine sanitation devices must be set to direct all sewage to the Type III marine sanitation device and, while the vessel is on the waters of the state, must be locked or otherwise secured by the boat operator, so as to prevent resetting. Floating structures may be permanently attached to onshore sewage disposal via plumbing. No floating structure may be plumbed to permit the discharge of sewage into the waters of this state. *Id.* A Type III marine sanitation device is typically a holding tank where sewage is stored until it can be discharged either onshore or at sea (beyond three miles from shore). U.S. Environmental Protection Agency, *Marine Sanitation Devices (MSDs)*, <https://www.epa.gov/vessels-marinas-and-ports/marine-sanitation-devices-msds> (last visited March 19, 2025).

Safety and Marine Sanitation Equipment Inspections

FWC's Division of Law Enforcement and other law enforcement officers¹¹ are responsible for enforcing state laws relating to vessel safety and vessel titling and registration.¹² As part of this responsibility, law enforcement officers may inspect all vessels on waters of the state.¹³

Law enforcement officers' authority to conduct inspections of safety and marine sanitation equipment aboard vessels is qualified in statute.¹⁴ When an owner or operator is aboard a vessel, law enforcement officers may board the vessel either with the consent of the owner or operator or if the officer has probable cause¹⁵ or knowledge to believe that a violation of vessel safety law has occurred or is occurring.¹⁶ However, an officer may not board any vessel for a safety and marine sanitation equipment inspection if the owner or the operator is not aboard the vessel. If an officer requests to perform an inspection of the vessel and the operator refuses or is unable to display the safety or marine sanitation equipment, the officer may board the vessel. Additionally, an officer may board the vessel if the safety or marine sanitation equipment is permanently installed and is only visible if the officer is on board the vessel.¹⁷

After the vessel operator demonstrates compliance with the safety equipment carriage and use requirements during an officer-initiated safety inspection, the operator will receive a safety inspection decal signifying that the vessel has met the requirements.¹⁸ FWC may designate an expiration date for the decals by rule, however the expiration must be valid for at least one year and not more than five years. All decals issued by FWC on or before December 31, 2018, are no longer valid after that date.¹⁹

The safety inspection decal is not required to be displayed.²⁰ However, if it is displayed, it must be placed within six inches of a vessel's properly displayed vessel registration decal. If the decal is displayed on a nonmotorized vessel that does not need to be registered, the decal must be placed above the waterline on the forward half of the vessel's port side.²¹ A law enforcement officer may not stop a vessel with a properly displayed and valid safety inspection decal for the sole purpose of inspecting the vessel for compliance with the safety equipment carriage and use

¹¹ Law enforcement agencies or officers specified in section 327.70, F.S., include FWC's Division of Law Enforcement and its officers, sheriffs and their deputies, municipal police officers, and any other law enforcement officer defined in section 943.10, F.S. As defined in section 943.10(1), F.S., a law enforcement officer is any person elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof who is vested with the 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.

¹² Section 327.70(1), F.S.

¹³ *Id.*

¹⁴ Section 327.56(1), F.S.

¹⁵ The probable cause standard is incapable of precise definition, as it deals with probabilities and depends on the totality of the circumstances. Generally, probable cause exists when a reasonable inquiry would cause a reasonably intelligent and prudent person to believe in the truth of a particular set of facts. *Maryland v. Pringle*, 540 U.S. 366 (2003).

¹⁶ *Id.*

¹⁷ *Id.* Safety and marine sanitation equipment inspections of floating structures must be completed in accordance with inspections of certain facilities, rather than vessels. See section 403.091, F.S.

¹⁸ Section 327.70(2)(a)1., F.S.

¹⁹ *Id.*

²⁰ Section 327.70(2)(a)2., F.S.

²¹ *Id.*

requirements, unless the officer has a reasonable suspicion²² that a violation of the safety equipment carriage or use requirements has occurred or is occurring.²³ This does not restrict an officer from stopping a vessel for any other lawful purpose.²⁴

Boating Restricted Areas

Under Florida law, boating-restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on the waters of this state for any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.²⁵

FWC may establish boating-restricted areas by rule.²⁶ Municipalities and counties may establish, by ordinance, boating-restricted areas for speed and wake restrictions and for safety reasons.²⁷ Municipalities and counties may also establish vessel-exclusion zones if the area is:

- Reserved as a canoe trail,
- Limited to vessels under oars or sail, or
- Reserved for a particular activity and user group separation is needed to protect the participants.²⁸

Lease of Sovereignty Submerged Lands by Boating Facilities

Sovereignty submerged lands are owned by the state and include, but are not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line²⁹ that lay beneath navigable fresh water or tidally influenced waters.³⁰ Title to sovereignty submerged lands is vested in the Board of Trustees of the Internal Improvement Trust Fund,³¹ which is authorized to administer all state-owned lands, including by leasing sovereignty submerged lands.³²

²² Reasonable suspicion takes into account the totality of the circumstances; it is more than a hunch, is considerably less than a preponderance of the evidence, and is obviously less than what is necessary to meet the probable cause standard. *Navarett v. California*, 134 S.Ct. 1683, 1687 (2014) (citing *U.S. v. Cortez*, 101 S.Ct. 690 (1981); *Terry v. Ohio*, 88 S.Ct. 1868 (1968); and *U.S. v. Sokolow*, 109 S.Ct. 1581 (1989).)

²³ Section 327.70(2)(b), F.S.

²⁴ *Id.*

²⁵ Section 327.46(1), F.S.

²⁶ Section 327.46(1)(a), F.S. These areas are established in Rule 68D-24, F.A.C.

²⁷ Section 327.46(1)(b), F.S.

²⁸ Section 327.46(1)(c), F.S.

²⁹ The mean high water line is the intersection of the local elevation of mean high water with the shore. Mean high water is calculated by taking the average height of high tides over a 19-year period. The mean high water line along the shore of land immediately bordering navigable waters is the boundary between the foreshore owned by the State of Florida and the uplands, which may be privately owned. Chapter 18-21.003(38)-(39), Fla. Admin. Code.

³⁰ Chapter 18-21.003(67), Fla. Admin. Code.

³¹ The Board of Trustees of the Internal Improvement Trust Fund is comprised of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. Section 352.02(1), F.S.

³² Section 253.03(1), (6), and (7), F.S. The Florida Constitution allows for the private use of portions of sovereignty submerged lands, but only when not contrary to the public interest. FLA. CONST. art. X, s. 11.

The Board of Trustees is authorized in statute to lease sovereignty submerged lands for marinas, boatyards, mooring fields, and marine retailers.³³ A marina, boatyard, or marine retailer designated by the Department of Environmental Protection as a Clean Marina, Clean Boatyard, or Clean Marine Retailer under the Clean Marina Program may be eligible for a ten percent discount on its annual fee for a sovereign submerged lands lease if the facility:

- Actively maintains designation under the program,
- Complies with the terms of the lease, and
- Does not change use during the terms of the lease.³⁴

The facility may also be eligible for a waiver of its extended-term lease surcharges if the facility:

- Actively maintains designation under the program,
- Complies with the terms of the lease,
- Does not change use during the terms of the lease, and
- Is available to the public on a first-come, first-served basis.³⁵

If the facility is in arrears on lease fees or does not comply with the eligibility requirements for a waiver of the extended-term lease surcharges, the facility will not be eligible for the discount or waiver until arrears have been paid and compliance with the program has been met.³⁶

An extended-term lease is available for up to 25-year terms.³⁷ A one-time surcharge will be added to the extended-term lease fee for most extended-term leases.³⁸

Clean Marina Program

The Clean Marina Program is a voluntary designation program that incentivizes marinas,³⁹ boatyards,⁴⁰ and marine retailers⁴¹ to incorporate best management practices in their operations.⁴² These best management practices address issues like sensitive habitats, invasive species, waste management, stormwater control, water and air pollution, spill prevention, and emergency preparedness.⁴³

³³ Section 253.0346, F.S.

³⁴ Section 253.0346(3), F.S.

³⁵ *Id.* “First-come, first served” means that the facility operates on state-owned submerged land for which there is no club membership, stock ownership, equity interest, or other qualifying requirement and rental terms do not exceed 12 months and do not include automatic renewal rights or conditions. Section 253.0346(1), F.S.

³⁶ Section 253.0346(3)(c), F.S.

³⁷ Chapter 18-21.008(2), Fla. Admin. Code.

³⁸ Chapter 18-21.011(1)(b), Fla. Admin. Code.

³⁹ A marina is a docking facility with ten or more boat slips or a docking facility that provides marine supplies or services required for boating, including but not limited to: dry storage, boat repair, gas, oil, boat sales, boat testing, shellfish or finfish harvesting or distribution, or facilities associated with certain other boating-related commercial establishments. DEP, *Clean Marina Program*, <https://floridadep.gov/rcp/clean-marina/content/clean-marina-program> (last visited March 4, 2025).

⁴⁰ A boatyard is a facility that provides a repair or refinishing site for hull, mechanical, or electrical work on vessels. *Id.*

⁴¹ A marine retailer sells new or used boats and provides services like onsite or offsite repairs or refinishing for hull, mechanical, or electrical work. *Id.*

⁴² DEP, *Florida Clean Marina Best Management Practices*, 2 (2020), available at https://floridadep.gov/sites/default/files/2020_Florida_Clean_Marina_Best_Management_Practices.pdf.

⁴³ See DEP, *Florida Clean Marina Best Management Practices*; DEP, *Clean Marina Program*.

The program also provides compliance assistance and education on storm readiness through the Clean and Resilience Program.⁴⁴ In order to obtain the designation of Clean Marina, Clean Boatyard, or Clean Marine Retailer, facilities must meet all of the Florida Department of Environmental Protection's regulatory requirements and implement at least 60 percent of the best management practices.⁴⁵

Fuel Tax Collection Trust Fund

FWC is authorized to develop and administer competitive grant programs funded with money transferred pursuant to the Fuel Tax Collection Trust Fund requirements.⁴⁶ These grants may be awarded for:

- The construction and maintenance of publicly owned boat ramps, piers, and docks;
- Boater education;
- Deployment of manatee technical avoidance technology; and
- Economic development initiatives that promote boating in the state.⁴⁷

The Fuel Tax Collection Trust Fund requires an annual disbursement of \$2.5 million to FWC's State Game Trust Fund for recreational boating activities and freshwater fisheries management and research.⁴⁸ Of those funds, a minimum of \$1.25 million must be used to fund local projects to provide recreational channel marking and other uniform waterway markers, public boat ramps, lifts and hoists, marine railways, and other public launching facilities, derelict vessel removal, and other local boating-related activities.⁴⁹ The remaining \$1.25 million may be used for recreational boating activities and freshwater fisheries management and research.⁵⁰

III. Effect of Proposed Changes:

Section 1 provides that this act is the "Boater Freedom Act."

Section 2 amends s. 327.02, F.S., to provide that "probable cause" does not include any action to make a safety or marine sanitation equipment inspection.

Section 3 amends s. 253.0346, F.S., concerning the lease of sovereignty submerged lands for marinas, boatyards, mooring fields, and marine retailers. The bill provides that a facility designated as a Clean Marine Manufacturer under the Clean Marina Program will be eligible for a ten percent discount on its annual lease of sovereignty submerged lands, as well as a waiver of its extended-term lease surcharge, if it meets certain criteria. Facilities designated as Clean Marinas, Clean Boatyards, or Clean Marine Retailers are already eligible under current law.

Section 4 amends s. 327.47, F.S., which authorizes the Florida Fish and Wildlife Conservation Commission (FWC) to develop and administer competitive grants programs funded by the Fuel

⁴⁴ DEP, *Clean Marina Program*.

⁴⁵ *Id.*

⁴⁶ Section 327.47, F.S.

⁴⁷ *Id.*

⁴⁸ Section 206.606(1)(b), F.S.

⁴⁹ *Id.*

⁵⁰ *Id.*

Tax Collection Trust Fund. The bill provides that, in addition to what is currently authorized, grants may be awarded for the construction and maintenance of parking for boat-hauling vehicles and trailers.

Section 5 amends s. 327.56, F.S., which concerns safety and marine sanitation equipment inspections. Current law prohibits an officer from boarding a vessel to perform a safety or marine sanitation equipment inspection if the owner or operator is not aboard the vessel. However, if the owner or operator is aboard the vessel, an officer may board when the officer has probable cause or knowledge to believe that a violation of vessel safety laws has occurred or is occurring.

The bill allows an officer to board a vessel if the owner or operator is not aboard the vessel, however, it requires officers to make a good faith effort to avoid boarding in that situation. The bill provides that, regardless of whether the owner or operator is aboard the vessel, an officer may board or perform a vessel stop when the officer has probable cause or knowledge to believe that a violation of vessel safety laws has occurred or is occurring.

The bill further provides that a violation of safety and marine sanitation equipment requirements may only be considered a secondary offense, rather than a primary offense.

The bill also removes language authorizing a law enforcement officer to board a vessel when the operator refuses or is unable to display the safety or marine sanitation equipment required by law if the officer requests the operator to do so. It removes language authorizing an officer to board a vessel when the safety or marine sanitation equipment to be inspected is permanently installed and not visible for inspection unless the officer is aboard the vessel. The bill further removes the requirement that compliance inspections of floating structures must be done in accordance with the requirements for inspections of certain facilities, rather than vessels.⁵¹

Section 6 amends s. 327.70, F.S., to require FWC to coordinate with the Florida Department of Highway Safety and Motor Vehicles to create a “Florida Freedom Boater” safety inspection decal that will be issued following the demonstration of compliance with safety equipment carriage and use requirements at the time of registration or renewal. The decal will signify that a vessel is deemed to have met safety equipment carriage and use requirements.

The bill removes language providing that all decals issued by FWC on or before December 31, 2018, are no longer valid after that date.

The bill requires the display of the “Florida Freedom Boater” safety inspection decal.

The bill deletes language prohibiting an officer from stopping a vessel displaying a valid safety inspection decal for the sole purpose of inspecting the vessel for compliance with safety equipment carriage and use requirements unless there is reasonable suspicion that a violation of

⁵¹ See section 403.091, F.S., which provides that any duly authorized representative of the Florida Department of Environmental Protection may enter and inspect any property, premises, or place (except for a private residence) on or at which the following facilities or structures are located or are being constructed or installed or where certain records are kept: a hazardous waste generator, transporter, or facility or other air or water contaminant source; a discharger; any facility containing underground stationary tanks that contain hazardous substances or pollutants and with a specified storage capacity; or a resource recovery and management facility.

such requirements has occurred or is occurring. The bill provides that a law enforcement officer is not restricted from stopping a vessel for any lawful purpose when the officer has probable cause or knowledge to believe that a violation has occurred or is occurring.

Section 7 creates s. 327.75, F.S., which may be cited as the “Watercraft Energy Source Freedom Act.” The bill defines “energy source” to mean any source of energy used to power a watercraft, including, but not limited to, gasoline, diesel fuel, electricity, hydrogen, and solar power. It also defines “watercraft” to mean any vessel or craft designed for navigation on water, including boats and personal watercraft.

The bill prohibits a state agency, municipality, government entity, or county from restricting the use or sale of a watercraft based on the energy source used to power the watercraft. This includes an energy source used for propulsion or used for powering other functions of the watercraft.

Section 8 provides that if any provision of this act or its application to any person or circumstance is held invalid, the invalidity must not affect the remaining provisions or applications of this act that can be given effect without the invalid provision or application.⁵²

Section 9 provides an effective date of July 1, 2025.

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 identified.

⁵² This is a severability clause. If a part of a statute is constitutionally invalid, a court may sever the valid portion and allow that part of the law to stand, regardless of whether the statute contains a severability clause. However, if the otherwise valid provisions are so connected with the invalid provision so that it indicates the Legislature intended the provisions to operate as a whole, a court may decide that severability is impossible and invalidate the whole statute. *See Fla. Hosp. Waterman, Inc. v. Buster*, 984 So. 2d 478, 493-494 (Fla. 1978); *see State ex rel. Boyd v. Green*, 355 So. 2d 789, 794-795 (Fla. 1978).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 327.02, 253.0346, 327.47, 327.56, and 327.70 of the Florida Statutes.

This bill creates section 327.75 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.