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DATE: June 27, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-362, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
WATER & RESOURCE MANAGEMENT
FINAL ANALYSIS**

BILL #: CS/CS/SB 386, 2nd Engrossed
RELATING TO: Fish & Wildlife Licenses
SPONSOR(S): Senate Committee on Natural Resources, Senate Committee on Fiscal Resource
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) Natural Resources YEAS 6 NAYS 0
- (2) Fiscal Resource YEAS 5 NAYS 0
- (3)
- (4)
- (5)

I. SUMMARY:

CS/CS/SB 386, 2nd Engrossed, enhances Florida's boating safety laws as enforced by the Fish and Wildlife Conservation Commission (FWCC) by raising the age for rental of personal watercraft from 16 to 18 years of age, by requiring instruction in the operation and handling of personal watercraft, by requiring that liveries carry liability insurance, by increasing safety standards for divers, and by increasing the membership of the Florida Boating Advisory Council.

CS/CS/SB 386, 2nd Engrossed, creates a combination saltwater/freshwater fishing license, a combination hunting, freshwater fishing and saltwater fishing license, and clarifies disability exemption requirements for hunting and fishing licenses. The bill clarifies provisions relating to the use of funds deposited into the Save the Manatee Trust Fund, authorizes the FWCC to establish a fee for electronic license sales by competitive bid, creates new penalties for forging or counterfeiting hunting and fishing licenses, and establishes court costs for persons found guilty of boating violations.

CS/CS/SB 386, 2nd Engrossed, repeals s. 258.398, Florida Statutes, 1997 edition, designating Lake Weir as an aquatic preserve.

The bill appears to have a minimal fiscal impact on state and local governments. It provides rulemaking authority to the FWCC, does not trigger local government mandate requirements, and does not raise constitutional issues.

Except as otherwise provided, CS/CS/SB 386, 2nd Engrossed, takes effect on July 1, 2000.

(NOTE: HB 2225, the companion bill to CS/CS/SB 386, 2nd Engrossed, died on the House Calendar on May 5, 2000.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

CS/CS/SB 386, 2nd Engrossed, requires that the FWCC prepare and, upon request, supply law enforcement entities with accident report forms which must contain specific information. Accident reports must be made in writing on the forms approved by the FWCC. Currently, there is no requirement that law enforcement officers submit boating accident reports on specific forms.

CS/CS/SB 386, 2nd Engrossed, creates new civil penalties and fines for violations of boating laws.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

CS/CS/SB 386, 2nd Engrossed, provides that liveries must obtain liability insurance coverage in specified amounts, and must provide specific pre-ride or pre-rental instruction. The bill places additional restrictions on divers by requiring a new size flag to be displayed on vessels, and by imposing additional safety requirements, and authorizing future noncriminal monetary sanctions for violations of diving laws.

The bill places restrictions on operators and riders of personal watercraft by limiting the type of personal flotation device which may be worn. The bill makes it unlawful for the owner of a leased, hired, or rented personal watercraft, or any person having charge over a leased, hired, or rented personal watercraft, to authorize or knowingly permit the watercraft to be operated by a person who has not received instruction in the safe handling of a PWC. The person must sign a written statement that attests to receipt of instruction.

CS/CS/SB 386, 2nd Engrossed, raises the age of individuals who are authorized to lease, rent, or hire a PWC from 16 to 18 years of age. Further, the bill provides that no one may operate a leased, hired, or rented PWC without receiving instruction in the safe handling of said PWC, and without signing a statement attesting to the same.

4. Personal Responsibility Yes No N/A

5. Family Empowerment Yes No N/A

B. PRESENT SITUATION:

General Boating Information

The United States Coast Guard Boating Safety Report shows that in 1999, Florida ranked number one in the country with 58 boating fatalities reported, one of the lowest fatality numbers in the past eight years. Texas and California, ranked second and third in the nation, reported 45 and 44 boating fatalities respectively.

Florida's 1998 Boating Accident Statistical Report as produced by the Department of Environmental Protection shows that in 1997, Florida ranked third in the nation with 796,662 registered recreational vessels. The Department of Highway Safety and Motor Vehicles

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reports that in 1998, Florida had 809,160 registered vessels, both commercial and recreational; and 1,282 recreational accidents. The Florida Marine Patrol investigated 56 percent of the accidents, and Game & Fresh Water Fish Commission investigated 13 percent. Other law enforcement investigators included local law enforcement such as the police department and the sheriff's office.

The highest number of accidents occurred in April (185) and the lowest number occurred in February (55). More accidents occurred between the hours of 2 p.m. - 4 p.m., and the highest number of accidents occurred in the waters of the bays and sounds of the state (257), with rivers and creeks following a close second (255), and the waters of the ocean and gulf in third place (250). Collisions with other vessels accounted for the highest type of accident (412). Of the 3,627 persons involved in recreational accidents, more than 2,500 were not wearing personal flotation devices, and more than 2,900 reported no injury.

Regulation of Vessels by Counties and Municipalities

Section 327.22, F.S., authorizes counties and cities expending money for the patrol, regulation, and maintenance of lakes, rivers, or waters, and for other boating related activities within the city or county to regulate vessels resident in the city or county. Local governments may adopt ordinances providing for the enforcement of noncriminal violations of s. 327.33, F.S., relating to careless operation of a vessel that results in the endangering or damaging property. These ordinances apply only in designated restricted areas which are properly marked and in need of shore line protection.

Section 327.46, F.S., provides that using the procedures established in chapter 120, the FWCC has the authority to establish restricted areas on the waters of the state for any purpose deemed necessary for public safety. Each restricted area must be developed by the FWCC in consultation and coordination with the governing body of the county or city in which the restricted area is located.

Finally, s. 327.60, F.S., provides that nothing in specified sections of chapter 327 shall be construed to prevent the adoption of any ordinance or local law relating to the operation and equipment of vessels, except that no ordinance or local law may apply to the Florida Intracoastal Waterway, and providing that said local laws or ordinances are operative only when they are not in conflict with the provisions of chapter 327.

According to information provided by the FWCC, local governments have been enacting ordinances prohibiting the use of personal watercraft during certain hours, and limiting the speed at which personal watercraft can be operated in near-shore waters.

Divers-Down Flags

Section 861.065, F.S., states that a diver is a person who is wholly or partially submerged in the waters of the state, and who is equipped with a face mask and snorkel, or an underwater breathing apparatus. Divers-down flags are square or rectangular, and approximately 4 units high by 5 units long, with a 1-unit diagonal white stripe on a red background. The stripe must begin at the top staff-side and extend diagonally to the opposite lower corner. The flag must be free-flying and must be lowered when all divers are aboard or ashore. The minimum size is 12 by 12 inches.

Divers are required to prominently display one or more divers-down flags in an area where diving occurs, other than when diving in an area customarily used for swimming. Divers are required to make reasonable efforts to stay within 100 feet of the flag on rivers, inlets, and in navigation channels. Section 327.33, F.S., requires that persons operating vessels on rivers, inlets, and in navigation channels are required to make a reasonable effort to maintain a

distance of 100 feet from any divers-down flag. A vessel operator who comes within 100 feet of a diver commits a noncriminal violation, punishable by a \$50 civil penalty. A diver who commits a willful violation of s. 861.065, F.S., commits a second degree misdemeanor.

Information provided by the FWCC indicates the following:

- o Average statewide fine for a divers-down flag violation is approximately \$100.
- o In 1997, the Florida Marine Patrol and the Game & Fresh Water Fish Commission issued 228 tickets for divers-down flag violations. In 1998, 233 tickets were issued.
- o The average conviction rate on a divers-down flag violation is 95 percent.

Personal Watercraft (PWC)

PWC are currently defined as either Class A-1 or A-2 vessels, depending on their length, and their use of an outboard or inboard motor powering a water jet pump as a primary power source. PWCs are 8 to 16 feet long and are designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel. Most PWCs are classified as A-1 vessels and as such, are subject to a \$3.50 registration fee, with a \$1 surcharge for the State Law Enforcement Radio System Trust Fund, and a \$2.25 service charge to the county tax collector, for a total fee of \$6.75.

The FWCC reports that in 1998, 77,416 PWC were registered in Florida as Class A-1 vessels. Given a fee per vessel of \$3.50, the FWCC reports the revenue breakdown as follows:

77,416 registered vessels @\$3.50	=	\$270,956
10% (\$.35) to DHSMV	=	\$27,096 (administrative costs)
\$1.50 to the STMTF	=	\$116,124
Remaining \$1.65 to the MRCTF	=	\$127,736

Class A-2 PWC (12-16 feet in length) pay a total registration fee of \$13.75, of which \$1 goes to the State Law Enforcement Radio System Trust Fund, \$2.25 is paid to the county tax collector as a service charge, \$2.85 is returned to the county where the vessel is registered, \$1.50 goes to the STMTF for manatee and marine mammal research, protection and recovery; and manatee rescue, rehabilitation and release; and \$2 is deposited into the Invasive Plant Control Trust Fund which receives \$2 from all non-commercial registration fees, except for class A-1 vessels. The remaining \$4.15 is deposited into the MRCTF.

For commercial vessel registrations, 40 percent of the total fee is transferred into the Invasive Plant Control Trust Fund, and 40 percent must be used for law enforcement and quality control programs. The remaining 20 percent, and the remainder of all other vessel registration fees, are retained in the MRCTF to be used for recreational channel marking; public launching facilities; aquatic weed control; manatee protection, recovery, rescue, rehabilitation and release; and marine mammal protection and recovery.

In 1998, PWC accounted for approximately 10 percent of all vessels, 34 percent of all boating accidents, and 50 percent of all boating injuries, including fatalities. Of the 431 PWC accidents reported in 1998, 327 resulted in injury and 11 resulted in death. All other types of recreational vessels reported 851 accidents, 323 injuries, and 59 fatalities. PWC have a disproportionate number of accidents and fatalities compared to all other recreational vessels.

Florida currently requires that Type I, II, III or V personal flotation devices as approved by the United States Coast Guard, must be worn when persons are operating, riding on, or being towed behind a PWC. Life jackets that inflate manually or automatically are currently

permitted. Also, a PWC may be operated from one-half hour before sunrise to one-half hour after sunset. However, manufacturers do not equip PWC with running lights. Reckless operation of a PWC is prohibited by s. 327.39(4), F.S., but this provision does not include the more general description of reckless or careless operation of a vessel found in s. 327.33, F.S. The minimum age to operate a PWC is 14. The minimum age to rent a PWC is 16 but, once the PWC has been rented, the PWC may be operated by persons as young as 14 years of age. Operators are not required to carry proof of age.

Vessel Testing

There are a number of administrative rules that apply to vessel testing facilities, but all relate in some way to manatee protection. See, R. 62N-22.003(7), 62N-22.009(4), and 62N-22.024(3), Fla. Admin. Code.

Liveries

Section 327.54, F.S., provides safety regulations for liveries. Current law provides that liveries may not:

- o Knowingly lease, hire, or rent a vessel to any person when the vessel is equipped with a motor of 10 horsepower or greater, unless prerenal or preride instruction is provided;
- o Lease, hire, or rent a PWC to any person under 16 years of age;
- o Lease, hire, or rent a PWC without displaying boating safety information; and
- o Lease, hire, or rent a PWC without receiving a signature from the lessee stating that the lessee has received instruction in the safe handling of a PWC.

Antique Vessel Registration

Prior to the 1999 legislative session, s. 327.25(2), F.S., provided that antique vessels could display their registration numbers on either the port side of the windshield or on the forward half of the hull. This provision conflicted not only with s. 327.11, F.S., but with preemptive federal regulations. The state had received notice from the United States Coast Guard that its \$3.9 million federal boating safety grant could be jeopardized if this provision was not corrected by May 1999. The conflict has not been corrected by the Legislature but the state has not, as yet, lost grant money.

Disability Exemptions for Fishing and Hunting Licenses

Chapters 370 and 372, F.S., regulate income exceptions and license exemptions for disabled Florida residents. Saltwater products licenses and saltwater fishing licenses are regulated under chapter 370. Freshwater fishing and hunting licenses are regulated under chapter 372.

Under the provisions of s. 370.05(2), F.S., persons engaged in the sale of saltwater products, or engaged in the harvesting of saltwater products with specified gear or equipment, must have a valid saltwater products license as issued by the FWCC. Further, persons selling species that have been designated as a "restricted species" are required to have a restricted species endorsement on a saltwater products license. A "restricted species" endorsement may only be issued to persons meeting specific income criteria, however s. 370.06(2)(a)2.g., F.S., provides exceptions to the income requirements including, but not limited to, the following:

- o Any resident who is certified to be totally and permanently disabled by a verified written statement, based upon the criteria for total disability in chapter 440, from a physician licensed in this state.
- o Any resident who is certified to be totally and permanently disabled by any branch of the United States Armed Services, by the Social Security Administration, or by the United States Department of Veterans' Affairs, or;

- o Residents who hold a valid identification card issued pursuant to s. 295.17, F.S. Under s. 295.17, F.S., the Florida Department of Veterans' Affairs is authorized to issue an identification card to any veteran who is a permanent Florida resident, and who has been adjudged by the United States Department of Veterans' Affairs, or its predecessor, to have a 100-percent service-connected permanent and total disability rating for compensation. An identification card may also be issued to a veteran determined to have a 100-percent service-connected total and permanent disability, and who is receiving disability retirement pay from any branch of the United States Armed Forces. The identification card may be used by the veteran as proof of 100-percent, service-connected permanent and total disability for any benefit provided by state law.

Persons meeting these requirements are exempt from the income requirements for a restricted species endorsement so long as they held a saltwater products license for at least 3 of the last 5 license years prior to the date of disability.

In ss. 370.0605(4) and 372.561(5), F.S., exemptions to license requirements for saltwater fishing, freshwater fishing, and hunting licenses and permits are provided for the following:

- o Permanent and totally disabled Florida residents as certified by the United States Department of Veterans' Affairs, or its predecessor; by the United States Social Security Administration, or by any branch of the United States Armed Forces.
- o Residents certified as permanently and totally disabled upon the verified written statement of a physician licensed to practice medicine in Florida, and based upon the criteria for permanent and total disability as established in chapter 440 governing Workers' Compensation.
- o Residents who hold a valid identification card issued pursuant to s. 295.17., F.S., upon presentation of same.

Any license issued under the provisions of these sections after January 1, 1997, will expire 5 years from date of issuance and must be reissued upon request. Further, a Disability Award Notice issued by the United States Social Security Administration is not sufficient proof of permanent and total disability for purposes of receiving an exemption for license and permit fees unless the form certifies that the Florida resident is permanently and totally disabled.

Saltwater Fishing, Freshwater Fishing, and Hunting Licenses

Fees for hunting, freshwater fishing, and saltwater fishing licenses were not affected by the creation of the FWCC. Revision 5 to the State Constitution provided that only the Legislature can establish license fees for all hunting and fishing licenses and permits, as well as establish penalties for violations of FWCC regulations.

Florida's recreational **saltwater fishing licenses** were created in 1989 and to date, have raised more than \$78 million in revenues. In fiscal year 1998-1999, more than 900,000 resident and non-resident recreational saltwater fishing licenses were sold, and more than \$10 million in revenue was collected. Data provided by the FWCC shows the following sales information:

- o 594,562 resident annual \$12 recreational saltwater licenses - \$7,134,744
- o 86,825 non-resident annual \$30 recreational saltwater licenses - \$2,604,750
- o 67,102 non-resident 7-day \$15 recreational saltwater licenses - \$1,006,530
- o 237,187 non-resident 3-day \$5 recreational saltwater licenses - \$1,185,935

Florida's **freshwater fishing licenses** were created in 1929. A resident annual license costs \$12; a non-resident annual license costs \$30, and the non-resident 7-day license cost \$15.

In 1996, the Legislature authorized a non-resident 3-day license to be sold for \$5. To encourage the sale of 7-day licenses instead, the 3-day license was repealed at the request of the old Game & Fish Commission during the 1999 Regular Legislative Session. Fees for annual resident and non-resident licenses have not been increased since 1989. For fiscal year 1998-1999, data submitted by the FWCC indicates sales of the following:

- o 416,662 resident annual \$12 recreational freshwater licenses - \$4,999,944
- o 45,513 non-resident annual \$30 recreational freshwater licenses - \$1,365,390
- o 28,165 non-resident, 7-day, \$15 recreational freshwater licenses - \$422,475
- o 89,133 non-resident, 3-day, \$5 recreational freshwater licenses - \$445,665

Data submitted for fiscal year 1999-2000 shows that from July 1, 1999 through October 31, 1999, the FWCC has sold 9,045 non-resident, 7-day, \$15 licenses, thus increasing sales for the first six months of this fiscal year by more than 6,000 over the first six months of the last year. The final six months of this fiscal year will determine if the repeal of the 3-day license creates the desired effect.

Resident and non-resident annual hunting licenses were established in 1929. In 1989, the Legislature created a non-resident 10-day license for \$25. While the non-resident annual license was increased to \$150 in 1989, the resident annual license has remained constant since 1979 at a fee of \$11. For fiscal year 1998-1999, the FWCC reports the following:

- o 97,596 resident annual \$11 hunting licenses - \$1,073,556
- o 444 non-resident annual \$150 hunting licenses - \$66,600
- o 5,244 non-resident, 10-day, \$25 licenses - \$131,100

Aquatic Preserves

In 1975, the Legislature enacted the Florida Aquatic Preserve Act, Part II of Chapter 258, F.S. (Chapter 75-172, Laws of Florida), to designate for special protection those waterbodies and submerged areas with "exceptional biological, aesthetic, and scientific value." The Governor and Cabinet, acting as the "Board of Trustees of the Internal Improvement Trust Fund," may designate areas to be included in the state's aquatic preserve system, subject to confirmation by the Legislature.

Section 258.42, F.S., establishes a number of general regulations pertaining to aquatic preserves intended to limit dredging and filling, the construction of docks, seawalls and similar other structures, and the discharge of wastewater or other effluents that could degrade an aquatic preserve's water quality. Section 258.43, F.S., gives the Board of Trustees and its delegated entities, authority to adopt rules specifically tailored to each aquatic preserve. There are 42 aquatic preserves listed in Part II of chapter 258, F.S. Only two are freshwater aquatic preserves: Lake Weir in Marion County (designated in 1988) and Lake Jackson in Leon County (one of the original aquatic preserves).

One of the provisions of Chapter 99-245, L.O.F., was the repeal of the 1988 designation of Lake Weir as an aquatic preserve. A lawsuit has been filed challenging the repeal claiming that the repeal was not advertised prior to it being introduced to the Legislature, as required in s. 258.41(6), F.S. For the 2000 legislative session, supporters of the repeal published notification of the proposed de-designation of Lake Weir as an aquatic preserve in a Marion County newspaper 30 days prior to the proposal's inclusion in legislation.

C. EFFECT OF PROPOSED CHANGES:

CS/CS/SB 386, 2nd Engrossed, does the following:

- o Provides changes to boating safety laws regulating the size and use of divers-down flags, the operation of personal watercraft, and the lease, hire, or rental of vessels and personal watercraft from liveries.
- o Requires that liveries obtain liability insurance in the amount of \$500,000 per person and \$1,000,000 per incident.
- o Provides for instruction in the safe handling of personal watercraft.
- o Provides for the testing of vessels and vessel motors.
- o Provides specifications for pre-ride and pre- rental vessel safety instruction programs provided by liveries.
- o Creates fees and penalties for violation of boating safety provisions.
- o Provides that ordinances and local laws enacted by cities and counties to regulate the operation and equipment of vessels may not discriminate against personal watercraft.
- o Provides that a representative of the scuba diving industry may sit on the Boating Advisory Council.
- o Authorizes the distribution of the county portion of vessel registration fees directly to the counties.
- o Provides for a \$24 annual resident combination freshwater fishing and saltwater fishing license.
- o Provides for an annual \$34 resident combination hunting, freshwater fishing, and saltwater fishing license.
- o Repeals the \$5/3-day non-resident saltwater fishing license.
- o Clarifies disability exemption requirements for all hunting and fishing licenses, and for restricted species endorsements on saltwater products licenses.
- o Authorizes the FWCC to establish free saltwater fishing days by rule.
- o Repeals outdated license requirements for fur and hide dealers.
- o Clarifies the purposes for which funds deposited into the Save the Manatee Trust Fund may be used.
- o Repeals the designation of Lake Weir as an aquatic preserve.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 320.08058, F.S., to clarify the purposes for which funds deposited into the Save the Manatee Trust Fund from the sale of manatee license plates may be used.

Section 2. Amends. s. 327.02, F.S., to redefine commercial vessel, motorboat, navigation rules, recreational vessel, operate, personal watercraft, marker, and livery vessel.

Section 3. Amends s. 327.04, F.S., to provide the FWCC with the authority to adopt rules pursuant to chapter 120, F.S., to implement the provisions of chapter 327, F.S., relating to vessel safety.

Section 4. Amends s. 327.22, F.S., to clarify provisions governing the regulation of vessels by municipalities and counties.

Section 5. Creates s. 327.302, F.S., to provide that the FWCC shall prepare and, upon request, supply law enforcement entities with forms for accident reports. Provides that electronically produced reports must contain at least the same information as provided for in forms approved by the FWCC.

Section 6. Amends s. 327.33, F.S., effective October 1, 2000, to provide a conforming change to provisions contained in Section 7 of the bill.

Section 7. Renumbers s. 861.065, F.S., as s. 327.331, F.S., effective October 1, 2000. Increases the size of divers flags required to be displayed on vessels and provides that vessel operators must make a reasonable effort to maintain a distance of 100 feet from any divers-down flag while on a river, inlet, or navigation channel. Requires that divers must make a reasonable effort to stay within 300 feet of the divers-down flag on all waters other than rivers, inlets, or navigation channels, and requires that vessel operators must make a reasonable effort to maintain a distance of 300 feet under the same conditions. Provides conditions under which vessels may approach within 100 feet or 300 feet of a divers-down flag.

Section 8. Amends s. 327.331, F.S., effective October 1, 2001, to provide that criminal penalties for divers-down flag violations shall become noncriminal infractions.

Section 9. Amends s. 327.355, F.S., to clarify that breath alcohol levels are no longer measured in "percent" for breathalyser tests.

Section 10. Amends s. 327.36, F.S., to provide technical corrections.

Section 11. Amends s. 327.37, F.S., effective October 1, 2000, to provide that persons may not engage in parasailing, water skiing, aquaplaning, or similar activities, unless they are wearing noninflatable type 1 through type 5 personal flotation devices approved by the U.S. Coast Guard.

Section 12. Amends s. 327.39, F.S., effective October 1, 2000, to provide that persons may not operate a PWC unless the persons riding on, or being towed behind, such vessel are wearing a noninflatable type 1 through type 5 personal flotation device approved by the U.S. Coast Guard. Requires persons operating a PWC to comply with laws governing negligent operation of a vessel. Provides that it is unlawful for any owner of, or any person having charge or control over, a leased, hired, or rented PWC to allow a PWC to be operated by a person who has not received instruction in the safe handling of a PWC and signed a written statement attesting to the same, and provides that persons violating this provision create a second-degree misdemeanor, punishable by up to a \$500 fine and up to 60 days in jail. Authorizes the FWCC to establish rules prescribing instruction in the safe handling of PWC.

Section 13. Amends s. 327.395, F.S., effective October 1, 2000, to provide that any commission-approved boater education or boater safety course-equivalency examination developed or approved by the commission, must include a component regarding diving awareness.

Section 14. Amends s. 327.40, F.S., to update provisions regulating the placement of waterway markers for safety and navigation on the waters and shores of the state. Provides that no person, county, municipality, or other governmental entity can place safety or navigation markers without a permit from the Division of Law Enforcement at the FWCC. Provides the FWCC with rulemaking authority pursuant to chapter 120, F.S.

Section 15. Amends s. 327.41, F.S., to update provisions regulating the placement of uniform waterway regulatory markers in the waters of the state.

Section 16. Amends s. 327.46, F.S., to clarify the authority of the FWCC to establish restricted areas on the waters of the state for any public safety purpose.

Section 17. Creates s. 327.49, F.S., to provide for the testing of vessels to ensure acceptable boating safety standards. Provides that the FWCC may adopt reasonable rules to implement testing pursuant to the provisions of chapter 120.

Section 18. Amends s. 327.53, F.S., to repeal outdated provisions related to marine sanitation.

Section 19. Amends s. 327.54, F.S., effective October 1, 2000, to provide that when knowingly leasing, renting, or hiring vessels with motors of 10 horsepower or greater, liveries must provide prerenal or preride instruction that includes but is not limited to the operational characteristics of the vessel; safe vessel operation and vessel right of way; the responsibility of the vessel operator for the safe and proper operation of the vessel; and local characteristics of the waterway where the vessel will be operated. The instructor must have successfully completed a boater safety course approved by the National Association of State Boating Law Administrators and this state. The livery must also display boating safety information in a place visible to the renting public. Provides that the FWCC shall prescribe by rule, pursuant to chapter 120, the contents and size of the boating safety information displayed by the livery.

Raises the age of a person to whom liveries may rent, lease, or hire a PWC from 16 years of age to 18 years of age. Provides that a livery may not knowingly lease, hire, or rent a PWC to any person who has not received instruction in the safe handling of PWC in compliance with the rules established by the FWCC pursuant to chapter 120. Provides that the person must sign a written statement attesting to the fact that he or she has received said instruction.

Requires that liveries that lease, hire, or rent PWC, or liveries that offer to lease, hire, or rent PWC, obtain and carry in full force and effect a liability insurance policy providing coverage of at least \$500,000 per person and \$1,000,000 per event. Provides that the livery must have proof of insurance available for inspection at each location where PWC are being leased, hired, or rented. Repeals language providing that persons leasing the vessel from the livery are liable for violations and accidents occurring while said person is in charge of such vessel.

Section 20. Amends s. 327.60, F.S., to provide that ordinances or local laws adopted by cities and counties may not discriminate against personal watercraft.

Section 21. Amends s. 327.72, F.S., effective October 1, 2000, to provide that persons have 30 days instead of 10 days to pay civil penalties assessed for failure to comply with the provisions of chapters 327 or 328.

Section 22. Amends s. 327.73, F.S., effective October 1, 2000, to incorporate amendments to personal watercraft violations contained in paragraph (p) of subsection (1) of said section. Provides that persons who fail to comply with court requirements, or who fail to pay assessed civil penalties must pay additional court costs of \$12. Provides for public works service or community service in lieu of payment of civil penalties. Provides for additional community service in situations where noncriminal infractions have caused a death. Creates new court costs to be assessed in addition to civil penalties for swimming and diving infractions, for nonmoving boat violations, and for boating infractions. Provides for an additional \$2 or \$3 court cost for each infraction when the cost is assessed by a city or county. Provides that court costs imposed under these provisions may be used to fund law enforcement training.

Section 23. Amends s. 327.73, F.S., effective October 1, 2001, to provide that certain divers-down flag violations are noncriminal violations subject to a \$50 civil penalty.

Section 24. Amends s. 327.731, F.S., effective October 1, 2001, to provide that, in certain circumstances, persons convicted of divers-down flag violations must attend and complete a boating safety course.

Section 25. Amends s. 327.803, F.S., to increase the membership of the Boating Advisory Council to seventeen. Provides that a representative from the scuba diving industry shall be appointed to the Council.

Section 26. Amends s. 328.48, F.S., to provide technical revisions relating to vessel registration.

Section 27. Amends s. 328.56, F.S., to provide technical revisions relating to vessel registration numbers.

Section 28. Amends s. 328.66, F.S., to clarify the purposed for optional county vessel registration fees deposited into the Save the Manatee Trust Fund may be used.

Section 29. Amends s. 328.70, F.S., to provide technical revisions relating to uniform registration fees. Provides that livery vessels will be classified as "commercial" or "recreational" depending on use.

Section 30. Amends s. 328.72, F.S., to provide that antique vessel registrations shall be permanently attached to each side of the forward half of a vessel.

Section 31. Amends s. 328.72, F.S, effective July 1, 2001, to provide that the county portion of vessel registration fees will be distributed directly to the counties.

Section 32. Amends s. 328.76, F.S., to clarify the purposes for which vessel registration fees deposited into the Save the Manatee Trust Fund will be used.

Section 33. Amends s. 328.76, F.S., effective July 1, 2001, to provide that except for the county portion, all vessel registration fees collected by the Department of Highway Safety and Motor Vehicles will be deposited into the Marine Resources Conservation Trust Fund.

Section 34. Amends s. 370.06, F.S., to clarify disability exemption requirements for a restricted species endorsement on a saltwater products license.

Section 35. Amends s. 370.0605, F.S., to create an annual \$24 resident combination license for the taking of freshwater and saltwater fish; an annual \$34 resident combination license to hunt and to take freshwater and saltwater fish; to clarify disability exemption requirements for all saltwater fishing licenses authorized pursuant to s. 370.0605, F.S.; and to authorize the FWCC to designate no more than 2 consecutive or nonconsecutive days in each year as free saltwater fishing days. Authorizes the FWCC to establish a fee for electronic license sales for saltwater fishing licenses by competitive-bid procedures.

Section 36. Amends s. 372.561, F.S., to clarify disability exemption requirements for hunting and freshwater fishing licenses;

Section 37. Amends s. 372.57, F.S., to create an annual \$34 resident combination license to hunt and to take freshwater and saltwater fish, and to specify the cost of a permanent hunting and freshwater fishing license for persons 64 years of age or older.

Section 38. Amends s. 372.574, F.S., to authorize the FWCC to establish a fee for electronic license sales for hunting and freshwater fishing licenses by competitive-bid procedures.

Section 39. Amends s. 372.66, F.S., to repeal obsolete licenses for Nonresident and Resident Fur Dealer Agents, and for Resident Local Fur Dealers.

Section 40. Amends s. 372.83, F.S., to create felony penalties for persons that make, forge, counterfeit, or reproduce a hunting, freshwater fishing, or saltwater fishing licenses without authorization by the FWCC.

Section 41. Amends s. 713.78, F.S., to redefine "vessel" for purposes of filing liens for recovering, towing, or storing vehicles and documented vessels.

Section 42. Repeals s. 258.398, F.S., 1997 edition, designating Lake Weir as an aquatic preserve. Repeals subsections (10) and (11) of s. 370.14, F.S., providing for the \$2 recreational crawfish stamp.

Section 43. Establishes an effective date of July 1, 2000, except where otherwise provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Combination Licenses

The FWCC projects no revenue impact from the creation of the combination saltwater/freshwater fishing license and the combination hunting/saltwater/freshwater fishing license. The licenses are being created as a user convenience - the user will carry one license instead of two or three.

The FWCC expects to create no additional interest in recreational hunting or fishing by creating the combination licenses.

Impact of Penalty Provisions

Revenue to the FWCC from implementation of penalty provisions created in the bill is expected to be minimal.

2. Expenditures:

Expenditures by the FWCC to implement the provisions of the bill are expected to be minimal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Revenues to local government generated from additional court costs and penalties created in the bill are expected to be minimal.

2. Expenditures:

Expenditures of local government to comply with the provisions of the bill are expected to be minimal.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Some economic impact on the private sector can be expected from the implementation of CS/CS/SB 386, 2nd Engrossed, as liveries that rent, lease, or hire PWC are required to obtain liability insurance in specified amounts. Also, divers will be impacted by the implementation of the bill. Although the costs may be minimal, vessels are required to display larger size divers-down flags.

Economic Impact of Court Costs and Penalties created in CS/CS/SB 386, 2nd Engrossed

Effective July 1, 2000:

- o Persons found guilty to making, forging, counterfeiting, or reproducing a freshwater fishing, hunting, or saltwater fishing license commit a third-degree felony, punishable by fines of up to \$5,000 and a jail sentence not to exceed five years.

Effective October 1, 2000:

- o Owners of liveries who are convicted of violating the liability insurance requirements contained within CS/CS/SB 386 commit a second-degree misdemeanor, punishable by up to a \$500 fine and a jail sentence of up to 60 days.
- o Persons violating requirements for the use of type 1 through type 5 noninflatable personal flotation devices commit a noncriminal infraction, subject to a \$50 civil penalty.
- o Court costs, in addition to civil penalties, are assessed for certain water-related non-criminal violations.
- o Additional court costs of \$12 will be assessed against certain persons who fail to pay civil penalties assessed for boating violations within a specified time period.
- o Additional assessment of up to \$5 may be collected for county and city governments to be used for law enforcement training.
- o Owners of leased, hired, or tent PWC and persons having charge or control over a leased, hired, or tented PWC, commit a second-degree misdemeanor if they authorize or knowingly permit a PWC to be operated by a person who has not received instruction in the safe handling of PWC, and may be fined up to \$500 and receive a jail sentence of up to 60 days.
- o Operators of vessels that approach within 100 feet of a divers-down flag on a river, inlet, or navigation channel, or within 300 feet of a divers-down on other waters, faster than is necessary to maintain headway or steerage, may be ticketed for reckless operation of a vessel. If found guilty, violators commit a first-degree misdemeanor, punishable by fines of up to \$1,000, and a jail sentence of up to one year.

Effective October 1, 2001:

- o Non-criminal penalties (\$50 civil fine) will be imposed on divers who are ticketed for divers-down flag violations. Until October 1, 2001, persons convicted of divers-down violations may be fined up to \$500 and receive a jail sentence of up to 60 days.

D. FISCAL COMMENTS:

Section 42 of CS/CS/SB 386, 2nd Engrossed, erroneously repeals subsections (10) and (11) of s. 370.14, F.S., relating to the \$2 recreational crawfish stamp which generates approximately \$300,00 in revenue annually. Section 38 of CS/SB 186, 1st Engrossed, also enacted during the 2000 Regular Session, reinstates these subsections.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to CS/CS/SB 386, 2nd Engrossed, because the bill does not require cities or counties to expend funds, or to take actions regarding the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

CS/CS/SB 386, 2nd Engrossed, does not reduce the revenue-raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

CS/CS/SB 386, 2nd Engrossed, does not reduce the state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Section 12 of CS/CS/SB 386, 2nd Engrossed, provides the FWCC with the authority to establish rules prescribing the instruction to be given for the safe handling of personal watercraft.

Section 14 of CS/CS/SB 386, 2nd Engrossed, provides the FWCC with the authority to establish rules, pursuant to chapter 120, implementing the provisions of s. 327.40, F.S., the uniform marking of waterways in Florida for safety or navigation purposes.

Section 16 of CS/CS/SB 386, 2nd Engrossed, expands the authority of the FWCC to establish restricted areas on the waters of the state by rule, pursuant to chapter 120.

Section 17 of CS/CS/SB 386, 2nd Engrossed, authorizes the FWCC to adopt reasonable rules regulating the testing of vessels and vessel motors.

Section 18 of CS/CS/SB 386, 2nd Engrossed, provides the FWCC with rulemaking authority to prescribe the contents and size of boating safety information to be displayed by liveries to the renting public.

C. OTHER COMMENTS:

Section 22 of the bill provides for criminal penalties for failing to pay a fine imposed pursuant to s. 327.73, F.S. This provision could not be enforced against a person who demonstrates an inability to pay the penalty. See e.g. Art. I, s. 11, Fla. Const. (prohibiting imprisonment for failure to pay debts). However, Section 22 of the bill also makes provisions for persons who are unable to pay a civil fine by authorizing the courts to assess public works or community service as a penalty.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

SB 386, as filed on November 4, 1999, originally contained the following provisions:

- o Transferred recreational saltwater fishing license provisions from chapter 370, F.S., relating to marine resources, to chapter 372, F.S., relating to wildlife.
- o Created a \$24 annual resident freshwater/saltwater fishing license.
- o Created a \$34 annual resident hunting/freshwater/saltwater fishing license.
- o Clarified provisions authorizing license exemptions for disabled persons.
- o Created third degree felony penalties for persons convicted of making, forging, counterfeiting, or reproducing hunting or fishing licenses.
- o Repealed obsolete fur and hide dealer licenses.
- o Eliminated the \$5/3-day nonresident recreational saltwater fishing license.

On February 21, 2000, the Senate Natural Resources Committee considered SB 386, and after adopting amendments to provide the following, the bill was reported out as CS/SB 386:

- o Provided that saltwater portion of lifetime license fees previously deposited into the Marine Resources Conservation Trust Fund would be deposited into the Lifetime Fish and Wildlife Trust Fund instead.
- o Modified license exemptions for persons 65 years of age or older to conform with social security retirement eligibility requirements which provide for retirement age eligibility to increase incrementally.
- o Authorized the FWCC to establish a fee for electronic license sales by competitive-bid procedures.
- o Transferred provisions relating to forging or counterfeiting licenses to a more appropriate section of chapter 372, F.S.
- o Authorized counties to retain the county portion of vessel registration fees.
- o Repealed requirements for noncommercial net registration fees for residents of the state taking finfish for noncommercial purposes.

On March 23, 2000, the Senate Fiscal Resource Committee considered CS/SB 386. After adopting amendments which provided the following, the bill was reported out as CS/CS/SB 386:

- o Repealed sections in chapter 370, F.S., relating to snook and crawfish permits, to conform with changes made in the CS/SB 386 which created those same permits in chapter 372, F.S.
- o Repealed provisions in chapter 370, F.S., relating to the tarpon licensing program, and recreated the same provisions in chapter 372, F.S.

On April 27, 2000, the Florida Senate considered CS/CS/SB 386 on second reading. Amendments which provided the following were adopted and engrossed:

- o Increased the fee for private game preserve annual licenses from \$5 to \$25.
- o Reinstated the \$5/3-day nonresident recreational saltwater fishing license.
- o Established a \$100 Florida turkey permit for nonresidents to take wild turkeys.

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- o Authorized the FWCC to sell annual fishing rod licenses with a fee not to exceed \$200 per license.
- o Authorized the FWCC to adopt a processing fee not to exceed \$100 for each license or permit required pursuant to chapter 39 of the Florida Administrative Code.
- o Increased the license fee for private hunting preserves from \$25 to \$50.
- o Increased the annual license fee for exhibiting poisonous or venomous reptiles from \$5 to \$25.
- o Increased the annual fee for permits to exhibit 25 or less Class I or Class II wildlife specimens from \$5 to \$100.
- o Increased the annual fee for permits to exhibit more than 25 Class I or Class II wildlife specimens from \$25 to \$250.
- o Created a \$25 fee for an annual permit to exhibit any number of Class III wildlife specimens.

On May 2, 2000, the Florida Senate considered CS/CS/SB 386, 1st Engrossed, on third reading. The bill was passed with a vote of 38-1 and sent to the House for consideration.

On May 5, 2000, CS/CS/SB 386, 1st Engrossed, was read a second time, and the House adopted a "strike-everything" amendment which is the subject of this bill analysis. The bill was read a third time, and was passed as amended by a vote of 119-0. On May 5, 2000, the Senate concurred with the House "strike-everything" amendment, and the CS/CS/SB 386, 1st Engrossed, was passed as amended by a vote of 36-1.

On June 26, 2000, CS/CS/SB 386, 2nd Engrossed, was approved by the Governor and designated as Chapter 2000-362, Laws of Florida.

VII. SIGNATURES:

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

Staff Director:

Karon A. Molloy

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