

**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 Environmental Preservation and Conservation Committee

BILL: CS/SB 1192

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Rich

SUBJECT: Vessel Safety - Personal Watercraft

DATE: March 7, 2008                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bascom	Kiger	EP	Fav/CS
2.			CM	
3.			GA	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The committee substitute (CS) amends s. 327.39, F.S., increasing the minimum age requirement for individuals operating personal watercraft from 14 to 16. The CS also prohibits any owner of a personal watercraft from allowing an individual under the age of 16, or any person not in compliance with Florida boating safety law, from operating the owners personal watercraft.

Finally, the CS amends s. 327.54, F.S., requiring individuals who deliver instruction in the safe operation of leased or rented personal watercraft enroll in, at their own expense, attend, and successfully complete a boating safety course approved by the National Association of State Boating Law Administrators and the state.

The CS provides an effective date of July 1, 2008.

This CS amends s. 327.39, Florida Statutes, and s. 327.54, Florida Statutes.

## II. Present Situation:

Current law provides for specific requirements for the safe operation of personal watercraft (PWC) which includes:

- Persons operating a PWC shall wear a type I, II, III, or IV personal floatation device;
- Persons operating a PWC equipped with a lanyard type cutoff switch must attach the lanyard to his or her person;
- Persons may not operate a PWC between the hours of one-half hour after sunset to one-half hour before sunrise;
- Persons operating a PWC must do so in a safe and prudent manner at all times;
- Persons under the age of 14 shall not operate any PWC in waters of the state; and
- Owners of or persons in control of a PWC may not knowingly permit any person under the age of 14 to operate a PWC.

Additionally, Florida boating law requires that any person 21 years of age or younger may not operate any vessel powered by a motor of 10 horsepower or greater unless they have completed a boating safety course approved by the commission. Those persons must have photographic identification as well as the boater safety identification card, issued for completing the boating safety course, with them while operating such vessels.

Between 2003 and 2007, a total of 34 operators of a PWC who were between the ages of 14 and 16 were involved in reportable boating accidents, 10 of which were from rented PWC<sup>1</sup>. The requirements for per-rental or pre-ride instruction in the safe vessel operation include:

- Operational characteristics of the vessel to be rented;
- Safe vessel operation and vessel right-of-way;
- Responsibilities of the operator for the safe and proper operation of the vessel; and
- Local characteristics of the waterway where the vessel is to be operated.

Additionally, the commission adopted rule 68D-36.107, F.A.C., which establishes minimum instructional requirements that persons renting or leasing PWC must provide to individuals intending to operate the PWC. The requirements include:

- Operator responsibility and ethics;
- Navigation rules;
- Navigation aides, buoys and waterway markers;
- Awareness to changes in weather and water conditions;
- Water skiing and other activities specific to PWC;
- Boating accident causes, prevention, and legal requirements of the operator; and
- Other awareness issues.

The rule also requires that a person may not lease, hire, or rent a PWC unless they show a safe operation instructional tape or provide and review safe operational literature with each prospective operator prior to operation. That person must also provide an on-the-water demonstration and check-ride to verify the prospective operators' ability to safely handle the PWC.

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<sup>1</sup> Statistics provided by the Fish and Wildlife Conservation Commission.

Any person delivering such instruction must have successfully completed a boater safety course approved by the National Association of State Boating Law Administrators and the state. Such courses can be completed by home study, in a classroom, or via the internet.

### III. Effect of Proposed Changes:

**Section 1:** The CS amends s. 327.39, F.S., increasing the minimum age requirement for persons who operate a PWC from 14 to 16 years of age. The CS also requires that owners of a PWC not knowingly allow a person under the age of 16, or a person who does not possess a boating safety identification card in compliance with s. 327.395, F.S., to operate a PWC. Violations of s. 327.395, F.S., are considered non-criminal infractions and can carry a minimum civil penalty of \$50 as provided in s. 327.73, F.S.

The CS also corrects a cross-reference to current boating law.

**Section 2:** The CS amends s. 327.54, F.S., increasing the requirements for persons delivering pre-ride or pre-rental instruction for a PWC. Those persons would be required to enroll in, attend, and successfully complete, at his or her expense, a boating safety course approved by the National Association of Boating Law Administrators and the state. The CS also adds a reference, on the safe handling of PWC, to current commission rule 68D-36, Florida Administrative Code.

**Section 3:** The CS provides an effective date of July 1, 2008.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

This bill does not require cities and counties to expend funds or limit their authority to raise revenues or receive state-shared revenues as specified by s. 18, Art. VII, State Constitution.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

The bill requires that owners of a PWC must ensure that any individual between the ages of 16 and 21 have completed a boating safety course and have a boater safety identification card on them before allowing operation of their PWC. Failure to comply with provisions of the bill could result in a non-criminal infraction that carries a civil penalty of \$50 as well as other civil penalties as provided in s. 327.73, F.S.

The commission indicates that fiscal impacts to the private sector are not anticipated to be significant. However, livery personnel would be required to attend a boating safety course, at their own expense, before providing pre-ride or pre-rental instruction. The commission has indicated such courses cost an average of \$35 per person.

**C. Government Sector Impact:**

The FWC indicates they could implement the provisions of the bill, as part of their ongoing boating law enforcement responsibilities, at no additional cost.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The CS corrects a provision, that persons delivering instructional information must physically attend a boating safety course, so as to apply to s. 327.54 (4), F.S. and not s. 327.54 (1), F.S.

**B. Amendments:**

None.