

**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 Commerce Committee

BILL: CS/SB 306

INTRODUCER: Commerce Committee and Senator Rich

SUBJECT: Vessel and personal watercraft safety

DATE: March 18, 2009      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Kiger	EP	<b>Favorable</b>
2.	Hrdlicka	Cooper	CM	<b>Fav/CS</b>
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., to increase the minimum age requirement for individuals operating personal watercraft (PWC) from 14 to 16. Additionally, it prohibits any PWC owner from allowing an individual under the age of 16 or a person under the age of 21 who does not hold a Florida boating safety identification card to operate the owner's personal watercraft.

Finally, the CS amends s. 327.54, F.S., requiring individuals who deliver instruction in the safe operation of leased or rented PWC to 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 of Florida.

The CS provides an effective date of July 1, 2009.

CS/SB 306 amends s. 327.39, F.S., and s. 327.54, F.S.

## II. Present Situation:

“Personal watercraft” (PWC) are commonly known as “jet skis,” and are specifically defined in s. 327.02(30), F.S. They are regulated by s. 327.39, F.S. Current law provides for specific requirements for the safe operation of PWC which include:

- Persons operating<sup>1</sup> a PWC shall wear a type I, II, III, or IV personal flotation device;
- Persons operating a PWC equipped by the manufacturer with a lanyard type engine cutoff switch must attach the lanyard to his or her person, clothing, or personal flotation device as is appropriate for the specific vessel;
- 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 reasonable 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 he or she has photographic identification and a boater safety identification card issued by the Florida Fish and Wildlife Commission (commission) with him or her while operating such vessels. To receive a boating safety identification card, a person must have completed a boating safety course meeting the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators (NASBLA). Any boating safety course approved by both NASBLA and the State of Florida can be used to meet this requirement. This includes courses delivered via home study, a classroom, or the Internet. Further, the person must pass a course equivalency examination or a temporary certificate examination approved by the commission. Any person may obtain a boater safety identification card by complying with these requirements.<sup>2</sup>

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>3</sup>. The requirements for per-rental 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 established minimum instructional requirements of a livery<sup>4</sup> renting or leasing PWC. The instructor is required to provide to individuals intending to operate a PWC the following requirements:

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<sup>1</sup> “Operate” is defined in s. 327.02(27), F.S.

<sup>2</sup> Section 327.395, F.S.

<sup>3</sup> Statistics provided by the Fish and Wildlife Conservation Commission in their bill analysis, on file with the committee. “Boating accident” is defined in s. 327.03(3), F.S., as “a collision, accident, or casualty involving a vessel in or upon, or entering into or exiting from, the water, including capsizing, collision with another vessel or object, sinking, personal injury, death, disappearance of any person from on board under circumstances which indicate the possibility of death or injury, or property damage to any vessel or dock.”

<sup>4</sup> A “livery” is a business that rents vehicles or vessels. Black’s Law Dictionary (8th ed. 2004), livery.

- Operator responsibilities (ethics), courtesy and good judgment on the water;
- Navigation rules;
- Aids to navigation; such as buoys and other waterway markers;
- Awareness of changes in weather or water conditions and proper responses to those changes;
- Waterskiing and similar activities, if applicable to the PWC;
- Boating accidents, prevention, and legal requirements of the operator;
- Propulsion, steering and stopping characteristics of jet-pump vessel;
- Location and content of manufacturing labels; and
- All other requirements pursuant to 68D-36 F.A.C.

The rule also requires that a person may not lease, hire, or rent a PWC unless they show a safe operational 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 operator's ability to handle the PWC to be leased, hired, or rented.

### III. Effect of Proposed Changes:

**Section 1:** The CS amends s. 327.39, F.S., to increase the minimum age from 14 to 16 for anyone who operates a PWC. It also requires that an owner may not knowingly allow any person under the age of 16 or any person under the age of 21 who does not possess a boating safety identification card in compliance with s. 327.395, F.S., to operate a PWC. Current law specifies that violations of s. 327.395, F.S., are considered non-criminal infractions and can carry a minimum civil penalty of \$50.<sup>5</sup>

**Section 2:** The CS amends s. 327.54, F.S., increasing the requirement for livery personnel delivering pre-ride or pre-rental instruction for the lease, hire, or rental of a PWC. Those persons would be required to enroll in, attend, and successfully complete, at their own expense, a boating safety course approved by the National Association of Boating Law Administrators and the commission prior to delivering any instructions. These courses can be completed through a home study, in a classroom, or via the Internet.

The CS also adds a reference to the commission rule 68D- 36.107, F.A.C., Minimum Training Requirements for Personal Watercraft Rentals.

**Section 3:** The CS provides an effective date of July 1, 2009.

### IV. Constitutional Issues:

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

None.

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<sup>5</sup> Section 327.73, F.S.

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 CS increases the age restriction on a person who may operate a PWC from 14 to 16 years of age. Minimally, failure to comply with this provision of the CS 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. A person who chooses to appear before the county court to dispute the infraction may be issued a civil penalty not to exceed \$500, if the commission proves that the infraction took place. Court costs imposed cannot exceed \$45. If a person who is cited for a violation of s. 327.395, F.S., can show a valid boating safety identification card issued to that person at the time of the citation, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10.

The CS requires that owners of a PWC must ensure that an individual has completed a boating safety course and has a boater safety identification card on his or her person before allowing operation of the PWC. Owners of PWCs who violate s. 327.39(6), F.S., are subject to stricter penalties pursuant to s. 327.72, F.S., as are livery personnel who violate the provisions of s. 327.54, F.S. “Any person failing to comply with the provisions of this chapter not specified in s. 327.73 ... commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.”<sup>6</sup> Section 775.082, F.S., states that for a misdemeanor of the second degree the punishment may be sentencing of 60 days or less imprisonment. Section 775.083, F.S., states that for a misdemeanor of the second degree an individual may be sentenced to pay a \$500 fine either in addition to or in lieu of imprisonment imposed under s. 775.082, F.S. Section 775.083, F.S., also imposes court costs of \$20.

The CS increases the requirement for livery personnel delivering pre-ride or pre-rental instruction for the lease, hire, or rental of a PWC. The commission indicates that fiscal impacts to the private sector are not anticipated to be significant. Livery personnel, if they have not already done so, would be required to attend and successfully complete a boating safety course, at their own expense, before providing pre-ride or pre-rental

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<sup>6</sup> Section 327.72, F.S.

instruction. The commission has stated that courses that meet this requirement cost an average of \$35 per person.

C. **Government Sector Impact:**

The commission indicated 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.)

**Commerce Committee on March 17, 2008:**

The committee substitute makes the following technical changes:

- Clarifies who is required to have a boating safety identification card to operate an owner's personal watercraft (those who are under 21); and
- Amends the citation to the Florida Administrative Code to the specific administrative rule dealing with personal watercraft.

B. **Amendments:**

None.