

STORAGE NAME: h0979.ca
DATE: April 19, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 979
RELATING TO: Boating Safety
SPONSOR(S): Representative Crow
COMPANION BILL(S): CS/SB 1944 (s)

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

- (1) WATER AND RESOURCE MANAGEMENT YEAS 11 NAYS 0
 - (2) COMMUNITY AFFAIRS
 - (3) FINANCE AND TAXATION
 - (4) TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (5)
-

I. SUMMARY:

This bill addresses a number of boating-related issues, but focuses on personal watercraft.

It redefines personal watercraft as a vessel less than 16 feet in length and thus subject to \$10.50 registration fees. The bill provides that personal watercraft registration fees cannot be transferred from the Marine Resources Conservation Trust Fund and may only be used for on-the-water enforcement of boating laws, rules and ordinances and for boating safety education and training, except for \$1.50 to the Save the Manatee Trust Fund. The bill requires that, for antique vessels, the registration number must be permanently affixed to each side of the forward half of the vessel, and decals identifying a boat as an antique vessel must be displayed.

The bill also specifies that required personal watercraft personal flotation devices may not be of the inflatable type. Furthermore, the bill prohibits operation of personal watercraft between sunset and sunrise. In addition, the bill states that persons under the age of 18 may not operate a rented personal watercraft unless they are 16 or 17 and are accompanied by an adult, 18 years or older, on board. The bill would make it unlawful for any owner or others in control of rented personal watercraft to allow underage or untrained individuals to operate those personal watercraft. It raises the minimum age of a person who may operate a personal watercraft to 15, effective July, 1, 2000, and requires every person operating a vessel to carry photographic identification indicating the operator's date of birth.

Manufacturers would be allowed to test vessels and vessel motors, provided the testing does not adversely impact the safety of the boating public. In addition, the bill addresses a number of boating education and insurance issues for businesses that rent personal watercraft.

Except as otherwise noted, the bill takes effect July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Pursuant to 327.25 (2), F.S., antique vessels can currently display their registration numbers on either the port side of the windshield or on the forward half of the hull. This provision conflicts not only with 327.11, F.S., but with preemptive federal regulations. The state has received a notice from the United States Coast Guard stating that its \$3.9 million federal boating safety grant could be jeopardized if this provision is not corrected by May 1999.

Personal watercraft (PWC) are currently defined as either A-1 or A-2 vessels, depending on their length, using an outboard, or inboard motor powering a water jet pump, as its primary motive power source. They 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 are classified as A-1 vessels and as such are subject to a \$3.50 registration fee. Those 12 to 16 feet, A-2 vessels, pay a \$10.50 registration fee, with \$2.85 returned to the county where the vessel is registered. The first \$1.50 of all registration fees goes to the Save the Manatee Trust Fund of which \$1 goes to manatee and marine mammal research, protection and recovery and 50¢ goes to manatee rescue, rehabilitation and release. The Aquatic Plant Control Trust Fund receives \$2 from non-commercial registration fees, except for class A-1 vessels, and 40 percent from commercial vessel registration fees. Forty percent of the registration fees from commercial vessels is required to be used for law enforcement and quality control programs. The remainder of the funds are deposited in the Marine Resources Conservation Trust Fund for recreational channel marking; public launching facilities; aquatic weed control; manatee protection, recovery, rescue, rehabilitation and release; and marine mammal protection and recovery.

Historically, personal watercraft have been involved in a number of accidents disproportionate to the number of PWC registered. In 1998, less than 10 percent of all registered vessels were personal watercraft, but PWC accounted for 50 percent of all injuries and 33 percent of all accidents. Rented PWC, which make up less than one half of one percent of all registered vessels, are even more problematic as they account for 22 percent of all boating accidents and over two thirds of all PWC accidents.

Personal flotation devices are required when operating, riding on, or being towed behind personal watercraft. Life jackets that inflate manually or automatically are currently permitted. Personal watercraft may be operated until one-half hour after sunset to one-half hour before sunrise. However, PWC are not equipped with running lights by their manufacturers. Reckless operation of PWC is specified in 327.39(4), F.S., but does not include the more general description of reckless or careless operation of a vessel found in 327.33, F.S. The minimum age for PWC operation is 14. The minimum age for PWC rental is 16, but the PWC may then be operated by persons 14-16. However, there is no requirement for operators to carry proof of age, making enforcement difficult.

Liveries may not lease a vessel powered by a motor of 10 horsepower or greater to persons required to comply with s. 327.395 unless they have a boater safety identification card. Livery liability is presently governed by both 327.54, F.S., for land-locked lakes that are not under federal jurisdiction and 46 U.S.C. Appendix ss. 181-189 for all other waters.

B. EFFECT OF PROPOSED CHANGES:

The bill provides that personal watercraft would be redefined as a vessel measuring less than 16 feet in length. This changes the classification for those PWC under 12 feet in length that are currently A-1 vessels with a \$3.50 registration fee to A-2 vessels with a \$10.50 registration fee.

The bill requires antique vessels have their registration number permanently affixed to each side of the forward half of the vessel. Decals identifying the vessel as an antique vessel would have to be displayed as provided in subsection 327.11, F.S. and subsection 327.14, F.S.

Except for \$1.50 to the Save the Manatee Trust Fund, PWC registration fees could not be transferred from the Marine Resources Conservation Trust Fund and could only be used for on-the-water enforcement of boating laws, rules and ordinances and for boating safety education and training.

The bill provides inflatable PWC personal flotation devices are no longer allowed. A PWC operator could become incapacitated and unable to manually inflate the device; life jackets that inflate automatically can do so at inappropriate times when the wearer gets wet. Operation of PWC is prohibited between sunset and sunrise. Subsection 327.33, F.S., regarding reckless or careless operation of a vessel, is applied to PWC. In addition, the bill states that persons under the age of 18 may not operate a rented personal watercraft unless they are 16 or 17 and are accompanied by an adult, 18 years or older, on board. The adult would be responsible for any violation that occurred during operation and both the 16 or 17 year old and the adult would have to comply with s. 327.395 when applicable. The bill makes it unlawful for any owner or others in control of rented PWC to allow underage or untrained individuals to operate those PWC.

The minimum age of PWC operators is raised from age 14 to age 15, effective July 1, 2000 and then to age 16, effective July 1, 2001.

Every person operating a vessel is required to carry photographic identification indicating the operator's date of birth.

Manufacturers are allowed to test vessels and vessel motors, provided the testing does not adversely impact the safety of the boating public.

The bill provides that prior to renting vessels with 10 horsepower or greater motors, liveries would have to provide instruction regarding the operational characteristics of the vessel; laws and regulations, navigation rules, and personal responsibility; and local characteristics of the waterway to be used. The instructor is required to have successfully completed a boater safety course approved by the National Association of State Boating Law Administrators in this state. The vessel livery would also have to display boating safety information in a place visible to the renting public. Leasing of a PWC to anyone under age 18 is prohibited, unless they were 16 or 17 and accompanied and attended to by an adult who is 18 years or older. The adult is then responsible for any violation that occurs during operation and both the 16 or 17 year old and the adult must comply with s. 327.395 when applicable. Liveries could not knowingly rent a PWC to any person who had not received PWC safety training and signed a written statement attesting to that. Livery liability limitations would be governed by the provisions of 46 U.S.C. Appendix ss. 181-189. Under the bill, personal watercraft liveries are required to carry and show proof of insurance in full force and effect against accident, loss, injury, property damage, or other casualty in the amount of \$500,000 per person and \$1 million per event. The bill repeals current livery liability provisions would be repealed.

Paragraphs (p) and (s) of 327.73(1), F.S. are reenacted to incorporate the amendments to sections 327.39 and 327.395 referring to PWC and boater safety education.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. Personal watercraft liveries must maintain an insurance policy for accidents involving their vessels and are held liable for such events under 46 U.S.C. Appendix ss. 181-189. All vessel liveries must provide instruction regarding the operational characteristics of the vessel; laws and regulations, navigation rules, and personal responsibility; and local characteristics of the waterway to be used for vessels with 10 horsepower or greater motors. The vessel livery must display boating safety information in a place visible to the renting public.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

No agency or program is eliminated or reduced.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

Yes. Registration fees for PWC under 12 feet would increase from \$3.50 to \$10.50.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. The bill prohibits the leasing and operation of leased PWC to persons under the age of 18 unless they are 16 or 17 and are accompanied and attended to by an adult, who must be 18 years or older. The bill prohibits the operation of any PWC to persons under the age of 15 beginning July 1, 2000, and the age of 16 beginning July 1, 2001.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

The bill does not purport to provide services to families or children.

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

The bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

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D. STATUTE(S) AFFECTED:

327.02, 327.25, 327.28, 327.39, 327.395, 327.49, 327.54, 327.73(1)(p) and (s)

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends section 327.02, Florida Statutes, to redefine personal watercraft as a vessel measuring less than 16 feet in length.

Section 2: Amends section 327.25, Florida Statutes, to classify all PWC as class A-2 vessels subject to \$10.50 registration fees. Requires that, for antique vessels, the registration number must be permanently affixed to each side of the forward half of the vessel. Decals identifying the vessel as an antique vessel must be displayed as provided in subsection 327.11, F.S. and subsection 327.14, F.S.

Section 3: Amends section 327.28, Florida Statutes, to provide that except for \$1.50 to the Save the Manatee Trust Fund, of which \$1 goes to manatee and marine mammal research, protection and recovery and 50¢ goes to manatee rescue, rehabilitation and release, PWC registration fees cannot be transferred from the Marine Resources Conservation Trust Fund and may be used only for on-the-water enforcement of boating laws, rules and ordinances and for boating safety education and training.

Section 4: Amends 327.39, Florida Statutes, to provide that required PWC personal flotation devices may not be of the inflatable type. Prohibits operation of personal watercraft between sunset and sunrise. Applies subsection 327.33, Florida Statutes, regarding reckless or careless operation of a vessel, to PWC. States that no person under the age of 18 may operate a rented PWC unless they are 16 or 17 and are accompanied by an adult, 18 years or older, on board. The adult would be responsible for any violation that occurred during operation and both the 16 or 17 year old and the adult must comply with s. 327.395 when applicable. Makes it unlawful for any owner or others in control of rented PWC to allow underage or untrained individuals to operate those PWC.

Section 5: Amends section 327.39, Florida Statutes, to raise the minimum age of operation of any PWC to 15, effective July, 1, 2000.

Section 6: Amends section 327.39, Florida Statutes, to raise the minimum age of operation of any PWC to 16, effective July, 1, 2001.

Section 7: Amends section 327.395, Florida Statutes, to require every person operating a vessel to carry photographic identification indicating the operator's date of birth.

Section 8: Amends 327.49, Florida Statutes, to authorize manufacturers to test vessels and vessel motors, provided the testing does not adversely impact the safety of the boating public.

Section 9: Amends section 327.54, Florida Statutes, to provide that prior to renting vessels with 10 horsepower or greater motors, liveries must provide instruction regarding the operational characteristics of the vessel; laws and regulations, navigation rules, and personal responsibility; and local characteristics of the waterway to be used. The instructor must have successfully completed a boater safety course approved by the National Association of State Boating Law Administrators and this state. The vessel livery must also display boating safety information in a place visible to the renting public. Prohibits leasing of personal watercraft to anyone under age 18, unless they are 16 or 17 and are accompanied and attended to by an adult who is 18 years or older. The adult is responsible for any violation that occurs during operation and both the 16 or 17 year old and the adult must comply with section 327.395, Florida Statutes, when applicable. Liveries may not knowingly rent a PWC to any person who has not received PWC safety training and signed a written statement attesting to that. States that livery liability limitations are governed by the provisions of 46 U.S.C. Appendix ss. 181-189. Requires PWC liveries to carry and show proof of insurance in full force and effect against accident, loss, injury, property damage, or other casualty in the amount of \$500,000 per person and \$1 million per event. Current livery liability provisions are repealed.

Section 10: Amends paragraphs (p) and (s) of 327.73(1), Florida Statutes, to incorporate the amendments to sections 327.39 and 327.395, Florida Statutes, referring to PWC and boater safety education.

Section 11: Except as otherwise provided, the bill takes effect July 1, 1999. [NOTE: Raising the minimum age of PWC operators would be phased in over the next two years (age 15, July 1, 2000 and age 16, July 1, 2001).]

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Marine Resources Conservation Trust Fund and the Aquatic Plant Control Trust Funds are affected by this bill.

First, the monies acquired from PWC registration fees would increase due to the classification of personal watercraft as A-2 vessels. The associated fees would increase from \$3.50 to \$10.50. While \$1.50 would still go to the Save the Manatee Trust Fund, the bill provides that the remainder of the registration fee would go to the Marine Resources Conservation Trust Fund. These funds could not be transferred and could only be used for on-the-water enforcement of boating laws, rules, and ordinances or for boating safety education and training. Thus, use of funds from PWC fees for recreational channel marking; public launching facilities; aquatic weed control; manatee protection, recovery, rescue, rehabilitation and release; and marine mammal protection and recovery would be prohibited.

Secondly, \$2 from registration fees of non-commercial vessels not classified as A-2 would typically be deposited into the Aquatic Plant Control Trust Fund. However, under the bill, all funds from personal watercraft fees, except for the \$1.50 to the Save the Manatee Trust Fund, would go to the Marine Resources Conservation Trust Fund. Thus, an increase in revenue from the personal watercraft newly classified as A-2 would not occur. A reduction in funds would occur as a result of exempting fees from previously classified A-2 watercraft from being deposited into the Aquatic Plant Control Trust Fund.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Increased registration fees for owners whose PWC were previously classified as A-1.

2. Direct Private Sector Benefits:

Increased safety regarding PWC and vessels with motors of 10 horsepower or greater.

3. Effects on Competition, Private Enterprise and Employment Markets:

Personal watercraft insurance premiums and additional instruction costs could affect livery operation profits or cause them to increase rental rates.

D. FISCAL COMMENTS:

DEP estimates approximately \$541,416 in additional revenue will be generated by increased registration fees for personal watercraft.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 8, 1999, the Committee on Water and Resource Management adopted 4 amendments to HB 979. Two amendments were technical or clarifying in nature. One amendment removed the requirement for vessel operators to carry photo identification with them. One amendment removed the provision for the minimum age of personal watercraft operators to be raised to age 16 on July 1, 2001.

The four amendments are traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON WATER AND RESOURCE MANAGEMENT:

Prepared by:

Staff Director:

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