

**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.)

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Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

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BILL: SB 1454

INTRODUCER: Senator Hutson

SUBJECT: Vessels

DATE: February 8, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	<b>Pre-meeting</b>
2.			ACJ	
3.			FP	

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**I. Summary:**

SB 1454 revises what constitutes reckless or careless operation of a vessel and removes the authorization of law enforcement officers to inspect vessels in accordance with the Florida Vessel Safety Law or vessel titling, certificate, and registration requirements or make an investigation necessary, unless probable cause exists, to secure information required to carry out and enforce the Florida Vessel Safety Law or vessel titling, certificate, and registration requirements.

**II. Present Situation:**

**Reckless or Careless Operation of a Vessel**

A person who operates a vessel in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure any person is guilty of reckless operation of a vessel.<sup>1</sup> The penalty for committing reckless operation of a vessel is a misdemeanor of the first degree, which is punishable by maximum imprisonment of one year or a maximum fine of \$1,000.<sup>2</sup>

A person who fails to operate a vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person is guilty of careless operation of a vessel. Careless operation of a vessel is a noncriminal violation, which is punishable by a civil penalty of \$50.<sup>3</sup>

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<sup>1</sup> Section 327.33(1), F.S.

<sup>2</sup> Section 327.33(1), F.S.

<sup>3</sup> Sections 327.33(2) and 327.73(1)(h), F.S.

## Inspections and Enforcement

The U.S. Constitution protects people from unreasonable searches and seizures by the government.<sup>4</sup> The Fourth Amendment provides that “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated....”<sup>5</sup> The extent to which an individual is protected by the Fourth Amendment depends on the location of the search or seizure. None of the similar safeguards that are applicable to stops of motor vehicles on less than a probable cause are necessary predicates to stop a vessel.<sup>6</sup>

Under Florida law, officers are authorized to cause any inspections to be made of all vessels in accordance with the Florida Vessel Safety Law, as well as the vessel titling, certificate, and registration requirements.<sup>7</sup> Additionally, the Fish and Wildlife Conservation Commission (FWC) or any other law enforcement agency is authorized to make any investigation necessary to secure information required to carry out and enforce the Florida Vessel Safety Law, as well as the vessel titling, certificate, and registration requirements.<sup>8</sup>

The following items are examples of what an officer may check for:

- Registration documentation.
- Fire extinguishers.
- Navigation lights.
- Life jackets.
- Sound producing devices.

An officer is prohibited from boarding a vessel to make a safety inspection if the owner or operator is not aboard.<sup>9</sup> If the owner or operator is aboard, an officer is authorized to board a vessel with the consent or when the officer has probable cause or knowledge to believe that a violation of the Florida Vessel Safety Law is occurring.<sup>10</sup> An officer may board a vessel if the operator refuses or is unable to display the safety equipment required by law, if requested to do so by an officer, or when the safety equipment to be inspected is permanently installed and is not visible for inspection unless the officer boards the vessel.<sup>11</sup>

The Florida Vessel Safety Law, as well as the vessel titling, certificate, and registration requirements are required to be enforced by the following entities or officers:

- The Division of Law Enforcement of the FWC and its officers;
- The sheriffs of the various counties and their deputies;
- The municipal police officers; and

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<sup>4</sup> U.S. CONST. amend. IV.

<sup>5</sup> *Id.*

<sup>6</sup> U.S. Government Publishing Office, *Amendment 4-Searches and Seizures*, pg. 1423 (Oct. 5, 2014) available at <https://www.congress.gov/content/conan/pdf/GPO-CONAN-REV-2014-10-5.pdf>.

<sup>7</sup> Section 327.70(1), F.S.

<sup>8</sup> Section 327.70(4), F.S.; s. 328.18, F.S.

<sup>9</sup> Section 327.56, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

- Any other law enforcement officer described in s. 943.10, F.S.<sup>12</sup>

**2014 Uniform Boating Citation Summary**

Citation	FWC	Other
<u><b>Negligent Operation of a Vessel</b></u> <ul style="list-style-type: none"> <li>• Reckless operation of a vessel</li> <li>• Careless operation of a vessel</li> <li>• Navigation rule violation resulting in an accident</li> <li>• Navigation rule violation not resulting in an accident</li> <li>• Failure to report an accident</li> </ul>	802	468
<u><b>Registration and Numbering</b></u> <ul style="list-style-type: none"> <li>• Operation of unregistered/unnumbered vessels</li> <li>• Application, certificate, number or decal violation</li> <li>• Special manufacturer and dealer numbers</li> <li>• Violation relating to vessel titling</li> <li>• Violation relating to Hull Identification Numbers</li> </ul>	1,052	416
<u><b>Safety Equipment and Regulations</b></u> <ul style="list-style-type: none"> <li>• Equipment and lighting requirements</li> </ul>	3,416	525

**III. Effect of Proposed Changes:**

**Section 1** amends s. 327.33, F.S., to:

- Revise what constitutes reckless operation of a vessel to only apply if a person is operating a vessel in willful or wanton disregard for the safety of *other* persons or *other* property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure *another* person *outside the vessel*.
- Revise what constitutes careless operation of a vessel to only apply if a person is operating a vessel so as to endanger the life, limb, or property of *another* person *outside the vessel*.

Under the bill, reckless or careless operation of a vessel will only apply if the operator of the vessel is endangering or likely to endanger property other than the vessel itself or persons outside of the vessel. Endangering individuals inside the vessel will no longer constitute reckless or careless operation of a vessel.

**Section 2** amends s. 327.70, F.S., to:

<sup>12</sup> Section 327.70, F.S.; s. 943.10, F.S., defines the term “law enforcement officer” as “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with 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...”

- Remove the authorization of the Division of Law Enforcement of the Fish and Wildlife Conservation Commission and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer described in s. 943.10, F.S., to cause any inspections to be made of all vessels in accordance with chapters 327 and 328, F.S.
- Require probable cause to exist before the FWC or any other law enforcement agency is authorized to make any investigation necessary to secure information required to carry out and enforce chapters 327 and 328, F.S.

The bill is effective July 1, 2016.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

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:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 327.33 and 327.70.

**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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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