

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 Committee on Appropriations

BILL: PCS/SB 1132 (237298)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on the Environment and Natural Resources) and Senator Hutson

SUBJECT: Vessel Safety Inspection Decals

DATE: February 21, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Istler</u>	<u>Rogers</u>	<u>EP</u>	<u>Favorable</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEN</u>	<u>Recommend: Fav/CS</u>
3.	<u>Reagan</u>	<u>Hansen</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/SB 1132 authorizes the Fish and Wildlife Conservation Commission (FWC) to designate by rule the timeframe for the expiration of, and the specific design for, the safety inspection decal for vessels. The bill specifies that the decal may not be valid for more than five years, and, at a minimum, meet the standards specified in s. 327.70(2)(a), F.S., which requires the decal to be displayed:

- Within six inches of the vessel's properly displayed vessel registration decal; or
- For a non-motorized vessel which is not required to be registered, on the forward half of the port side of the vessel above the waterline.

The FWC will have additional workload relating to rulemaking to implement the bill. The associated costs of such workload will be absorbed within the FWC's existing resources.

II. Present Situation:

Florida Vessel Safety Law

Florida leads the nation in the number of vessels registered in any state with close to one million vessels.¹ The Fish and Wildlife Conservation Commission (FWC) is charged with coordinating

¹ Fish and Wildlife Conservation Commission (FWC), 2016 Boating Accident Statistical Report, *Introduction*, II (2016) available at <http://myfwc.com/media/4215167/2016BoatStatBook.pdf> (last visited Jan. 3, 2018).

and managing the waterways of the state to provide for safe and enjoyable boating.² Specifically, the Division of Law Enforcement within the FWC provides protection to those who enjoy Florida's waterways, while also enforcing resource protection and boating safety laws.³

Chapter 327, F.S., titled the "Florida Vessel Safety Law," includes laws relating to vessel safety, such as boating safety education course requirements, vessel operation requirements, and the delineation of boating-restricted areas. The Florida Vessel Safety Law, as well as vessel titling, certificate, and registration requirements, are authorized to be enforced by the following entities or officers:

- The Division of Law Enforcement within the FWC and its officers;
- Sheriffs of the various counties and their deputies;
- Municipal police officers; and
- Any other law enforcement officer described in s. 943.10, F.S.⁴

Safety Equipment and Inspections

The following safety items are required by state and federal law to be aboard a vessel and if found to be missing during a safety inspection can result in a vessel citation:

- Visible distress signals;
- Fire extinguishers;
- Navigation lights;
- Personal floatation devices; and
- Sound-producing devices.⁵

The United States Coast Guard offers Vessel Safety Checks (VSC) free of charge.⁶ Boats that pass the safety check are awarded a distinctive VSC Decal that alerts the Coast Guard, Harbor Patrol, and other law enforcement agencies that the boat was in full compliance with all federal and state boating laws for that year.⁷ The decal must be immediately affixed to a portion of the boat where it is readily visible to law enforcement authorities.⁸

The FWC also issues safety inspection decals upon demonstrated compliance with the safety equipment carriage and use requirements during a safety inspection administered by a law enforcement officer.⁹ The safety inspection decal, if displayed, must be located within six inches

² FWC, *Boating in Florida*, <http://myfwc.com/boating/> (last visited Jan. 8, 2018).

³ FWC, 2016 Boating Accident Statistical Report, *Introduction*, I (2016) available at <http://myfwc.com/media/4215167/2016BoatStatBook.pdf> (last visited Jan. 3, 2018).

⁴ Section 327.70, F.S.; Section 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..."

⁵ See s. 327.50, F.S., and FWC, *Boating Regulations, Equipment and Lighting Requirements*, available at <http://myfwc.com/boating/regulations/#nogo> (last visited Jan. 8, 2018) and U.S. Coast Guard Auxiliary, *Vessel Safety Checks*, available at <http://cgaux.org/vsc/> (last visited Jan. 8, 2018).

⁶ U.S. Coast Guard Auxiliary, *Vessel Safety Check Website*, available at <http://wow.uscgaux.info/content.php?unit=V-DEPT> (last visited Jan. 8, 2018).

⁷ U.S. Coast Guard, *Vessel Safety Check Manual*, (Oct. 2014) available at http://vdept.cgaux.org/pdf-files/CIM_16796_8A_Printable_Version.pdf (last visited Jan. 8, 2018).

⁸ *Id.*

⁹ Section 327.70(2), F.S.

of the inspected vessel's properly displayed vessel registration decal or, for nonmotorized vessels that are not required to be registered, must be located above the waterline on the forward half of the port side of the vessel.¹⁰

The FWC and any other law enforcement agency are authorized to inspect and investigate vessels as necessary to carry out and enforce the Florida Vessel Safety Law.¹¹ An officer is prohibited from boarding a vessel to make a safety inspection if the owner or operator is not aboard.¹² 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. An officer may board a vessel if the operator refuses or is unable to display the safety equipment required by law when 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.¹³

Additionally, if a vessel has a properly displayed and valid safety inspection decal created or approved by the FWC, a law enforcement officer may not stop such vessel for the sole purpose of inspecting the vessel for compliance with the safety equipment carriage and use requirements, unless there is a reasonable suspicion that a violation of a safety equipment carriage or use requirement has occurred or is occurring.¹⁴

The following chart provides a summary of the citations that were issued in 2016 relating to violations for registration and numbering requirements or safety equipment and regulations.

¹⁰ *Id.*

¹¹ See ss. 327.56, 327.70(4) and 328.18, F.S.; ch. 327, F.S. comprises the *Florida Vessel Safety Law*. The U.S. Constitution protects people from unreasonable searches and seizures by the government through the Fourth Amendment, which 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...." 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. See U.S. CONST. amend. IV and U.S. Government Publishing Office, *Amendment 4-Search and Seizure*, pg. 1241 (Oct. 5, 2014), available at <https://www.gpo.gov/fdsys/pkg/GPO-CONAN-1992/pdf/GPO-CONAN-1992-10-5.pdf> (last visited Jan. 8, 2018).

¹² Section 327.56, F.S.

¹³ *Id.*

¹⁴ Section 327.70, F.S.

2016 Uniform Boating Citation Summary¹⁵

Citation Type	Number of Citations Issued	
	FWC	Other
Registration and Numbering Operation of unregistered/unnumbered vessels Application, certificate, number or decal violation Special manufacturer and dealer numbers Violation relating to vessel titling Violation relating to Hull Identification Numbers	1,970	556
Safety Equipment and Regulations Equipment and lighting requirements	3,260	432

III. Effect of Proposed Changes:

The bill authorizes the Fish and Wildlife Conservation Commission (FWC) to designate by rule the timeframe for the expiration of, and the specific design for, the safety inspection decal. The bill specifies that the decal may not be valid for more than five years, and, at a minimum, meet the standards specified in s. 327.70(2)(a), F.S., which requires the decal to be displayed:

- Within six inches of the vessel’s properly displayed vessel registration decal; or
- For a non-motorized vessel which is not required to be registered, on the forward half of the port side of the vessel above the waterline.

The bill provides that all safety inspection decals issued by the FWC on or before December 31, 2018, are no longer valid after that date.

The bill takes effect January 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁵ FWC, 2016 Boating Accident Statistical Report, *Violation Summary*, 35 (2016) available at <http://myfwc.com/media/4215167/2016BoatStatBook.pdf> (last visited Jan. 3, 2018).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Fish and Wildlife Conservation Commission will experience additional workload associated with rulemaking authorized by this bill. The indeterminate costs associated with this workload will be absorbed within the commission's existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 327.70 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS by Appropriations Subcommittee on the Environment and Natural Resources on January 24, 2018:

Provides that all decals issued by the FWC on or before December 31, 2018, are no longer valid after that date. Delays the effective date from July 1, 2018, to January 1, 2019.

B. Amendments:

None.