

1989

## Session Law 89-136

Florida Senate & House of Representatives

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**S 142 GENERAL BILL/1ST ENG by McPherson and others (Similar CS/H 234, Compare H 732, H 1259, H 1424, S 371, S 522)**

**Personal Watercraft/Safety**; allows law enf. vessels to deviate from navigation rules in performance of duties; provides safety requirements for persons operating, riding on, or being towed behind personal watercraft; provides exception to such requirements for persons participating in specified activities; provides penalty; provides for courts to certify disposition of uniform boating citations to D.N.R., etc. Amends 327.02, .39, .54, .73. Effective Date: 10/01/89.

01/31/89 SENATE Prefiled

02/13/89 SENATE Referred to Natural Resources and Conservation

04/04/89 SENATE Introduced, referred to Natural Resources and Conservation -SJ 19; On Committee agenda—Natural Resources and Conservation, 04/05/89, 1:30 pm, Room-2C—Capitol

04/05/89 SENATE Comm. Report: Favorable by Natural Resources and Conservation, placed on Calendar -SJ 97

04/25/89 SENATE Placed on Special Order Calendar -SJ 198

04/27/89 SENATE Placed on Special Order Calendar -SJ 210; Passed as amended; YEAS 36 NAYS 0 -SJ 232

05/02/89 HOUSE In Messages

05/09/89 HOUSE Received, referred to Appropriations -HJ 418

05/16/89 HOUSE Withdrawn from Appropriations -HJ 498; Placed on Calendar

05/26/89 HOUSE Placed on Consent Calendar; Substituted for CS/HB 234 -HJ 667; Read second time; Read third time; Passed; YEAS 112 NAYS 1 -HJ 667

05/26/89 Ordered enrolled -SJ 480

06/12/89 Signed by Officers and presented to Governor

06/27/89 Approved by Governor; Chapter No. 89-136

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

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

BILL NO. SB 142

DATE: March 31, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

|    | <u>ANALYST</u> | <u>STAFF DIRECTOR</u> | <u>REFERENCE</u> | <u>ACTION</u>    |
|----|----------------|-----------------------|------------------|------------------|
| 1. | <u>Ross</u> CR | <u>Voigt</u> WW       | 1. <u>NRC</u>    | <u>Favorable</u> |
| 2. | _____          | _____                 | 2. _____         | _____            |
| 3. | _____          | _____                 | 3. _____         | _____            |
| 4. | _____          | _____                 | 4. _____         | _____            |

SUBJECT:

Vessels - Personal watercraft

BILL NO. AND SPONSOR:

SB 142 by  
Senator McPherson

I. SUMMARY:

A. Present Situation:

Currently, there are no laws specifically regulating the use of personal watercraft in Florida waters. Personal watercraft include Jet Skis, Wet Bikes, Wetjets, Waverunners, and other highly maneuverable, small vessels on which the operator stands, sits, kneels, or is towed behind. It is estimated that 10,000 or more personal watercraft are being used in Florida. The Department of Natural Resources has received reports of improper handling of such vessels, where in some instances death or injury of operators has occurred. Since 1986, eleven fatalities have resulted from collisions and drownings involving personal watercraft.

As the vessels are small and hardly visible to boat operators, especially during nighttime hours since they are generally not equipped with lights, it is necessary that personal watercraft operators remain a safe distance away from boats and that such vessels are not operated at night. In addition, it is important that life jackets be worn at all times as operators are easily thrown off into the water and are vulnerable to exhaustion. The Department agrees with these safety measures promoted by manufacturers and the Personal Watercraft Industry Association pertaining to personal watercrafts, however, it has no regulations to enforce them.

Manufacturers have equipped certain types of personal watercrafts with a safety disconnect tether switch, a safety device designed to attach to the operator which causes the vessel to automatically stop when the operator is thrown off the craft. It has been reported that operators have not been utilizing such safety devices. Manufacturers advise that these safety devices be used when the vessel is in operation.

The general operation of vessels, including personal watercraft, is regulated under s. 327.33, Florida Statutes, which prohibits reckless or careless operation of vessels. However, a more specific regulation is needed which defines those activities that are characteristically unsafe for personal watercrafts and which would fall under the definition of careless and reckless operation pursuant to s. 327.33.

Section 327.54 regulates the renting and leasing of vessels, including personal watercraft, by liveries. Restrictions on the number of persons permitted to use a vessel at one time and limits on amounts of vessel horsepower, along with requirements for the use of appropriate safety devices, are delineated by this section. A person convicted of violating s. 327.54 is guilty of a misdemeanor of the second degree and will be subject to pay a fine not exceeding \$500 as dictated by s. 775.083. It is provided that liability will transfer from the

livery to the watercraft operators, if the livery has complied with the terms of s. 327.54.

B. Effect of Proposed Changes:

Section 1. The definition of "personal watercraft" is added to the list of terms used in chapters 327 and 328. It states that a personal watercraft is a vessel of a length under 16 feet which is powered by an outboard or inboard motor driving a waterjet pump and operated by a person sitting, standing, kneeling, or being towed behind the vessel.

Section 2. The bill creates s. 327.39, for the regulation of activities on personal watercraft. It requires that a person riding on or being towed behind a personal watercraft wear a life jacket approved by the United States Coast Guard.

A person riding on personal watercraft equipped with a lanyard cut off switch or kill switch is required to properly attach the device to his clothing, life jacket or body.

The bill limits the permitted time of operation of personal watercraft to the daytime hours between one-half hour before sunrise to one-half hour after sunset.

It defines which actions taken on personal watercrafts will constitute the careless operation of a vessel under section 327.33(1). Such maneuvers include weaving through boat traffic, jumping a wake unreasonably close to a vessel or where visibility is blocked, playing "chicken" with boats by narrowly avoiding collision, and any other action which unnecessarily or unreasonably risks damage to property or injury or death of a person.

Persons engaged in a professional exhibition of personal watercraft or persons preparing to participate or participating in a race, regatta, marine parade, tournament, or exhibition in compliance with s. 327.48, are exempt from the provisions of s. 327.39.

Section 3. The bill adds provision to s. 327.54 dictating that liveries will not lease, hire, or rent a personal watercraft to any person who is under 16 years of age. Liveries convicted of violating this provision are guilty of a misdemeanor of the second degree. The bill provides that persons violating s. 327.54 will be punished as dictated by s. 775.082 or s. 775.083. Relevant provisions in s. 775.082 mandate that persons convicted of a misdemeanor of the second degree may receive a definite term of imprisonment not exceeding 60 days.

Section 4. The bill provides that violations of s. 327.39 are noncriminal infractions subject to punishment under s. 327.73. That section requires that persons violating such regulations must appear before the county court and receive a civil penalty of \$35, unless otherwise provided.

Section 5. The act takes effect October 1, 1989.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

No direct economic impact on the general public would result from the enactment of this bill. Safety restrictions will reduce related costs due to personal injuries and property damage. Revenues currently derived by liveries from persons under the age 16 who rent or lease personal watercrafts would no longer be available.

B. Government:

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No direct economic impact will result. The Marine Patrol has not identified any special needs to enforce these provisions.

III. COMMENTS:

IV. AMENDMENTS:

None.

From 1989 session wrap-up  
updated June 8, 1989



SB 142

The bill defines the term "personal watercraft". Safety regulations are provided for the operation of personal watercraft, which require the use of equipped lanyard switches and life jackets. The use of personal watercraft is prohibited between the hours from one-half hour after sunset to one-half hour before sunrise. Personal watercraft must be operated in a reasonable manner so as not to constitute reckless operation of a vessel. The use of personal watercraft is limited to persons 14 years of age or older and rentals of personal watercraft are restricted to those 16 years of age or older. An exemption is provided for professional exhibitions. The bill exempts law enforcement vessels from navigation rules in certain instances. Courts are required to certify disposition of uniform boating citations to the Department of Natural Resources.

\*\*AS PASSED BY THE 1989 LEGISLATURE\*\*

STORAGE NAME: h0234s-f.nr  
 DATE: June 19, 1989

HOUSE OF REPRESENTATIVES  
 NATURAL RESOURCES COMMITTEE  
 FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 234 (Senate companion SB 142 passed)

RELATING TO: Personal Watercraft/Regulation

SPONSOR(S): Representative D.L. Jones

EFFECTIVE DATE: October 1, 1989

DATE BECAME LAW: June 27, 1989

CHAPTER #: 89-136, Laws of Florida

COMPANION BILL(S): SB 142

OTHER COMMITTEES OF REFERENCE: (1) Appropriations  
 (2)

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I. SUMMARY:

A. PRESENT SITUATION:

The Personal Watercraft Industry Association estimates that over 150,000 personal watercraft have been sold in this country in the past 15 years. Florida currently has 7,821 actively registered personal watercraft. In addition, there are numerous unregistered personal watercraft being used in the state.

Manufacturers have targeted Florida as the fastest growing marketplace for personal watercraft in the nation. They estimate that the annual increase in personal watercraft in Florida will be approximately 35% to 40%. In the last three years, there have been 11 fatalities involving personal watercraft operators.

At the present time, there are no laws specifically regulating "jet-ski" type personal watercraft. The incompetent operation of such watercraft constitutes a hazard to natural resources, larger vessel navigation, and endangers the operator's life. Law enforcement officials throughout the state have had difficulties regulating the operation of these types of watercraft.

B. EFFECT OF PROPOSED CHANGES:

This bill:

1. Defines the term "personal watercraft."
2. Exempts law enforcement from navigational rules while in the performance of their duties.

3. Regulates the use of personal watercraft to:
  - a. Require persons operating personal watercraft or being towed behind a personal watercraft, to wear Coast Guard approved personal flotation devices.
  - b. Require the use of lanyard-type (a tether attached to life jacket or wrist of the operator which shuts off the engine if the operator falls off) engine cut-offs for vessels equipped with such lanyards.
  - c. Prohibit the operation of personal watercraft at night.
  - d. Require operation of personal watercraft in a "reasonable and prudent manner" and prohibits maneuvers that unreasonably or unnecessarily endanger life, limb, or property.
  - e. Provide exemptions to professional exhibitions.
  - f. Prohibit the operation of personal watercraft by persons under the age of 14; and prohibits persons from permitting 14 year old persons to operate personal watercraft.
3. Prohibits any livery from renting or leasing any personal watercraft to any person less than 16 years of age.
4. Provides for noncriminal infractions for which a fine of \$35 will be assessed violators.
5. Requires the courts, upon final disposition of any offense for which a uniform boating citation has been issued, to notify the department of said disposition within ten days.

C. SECTION-BY-SECTION ANALYSIS:

- Section 1. Defines personal watercraft.
- Section 2. Provides exemption to law enforcement.
- Section 3. Provides regulation of personal watercraft; provides exemptions.
- Section 4. Prohibits rental to persons less than 16 years of age.
- Section 5. Provides for noncriminal infractions.
- Section 6. Requires the courts, upon final disposition of any offense for which a uniform boating citation has been issued, to notify the department of said disposition within ten days.
- Section 7. Provides an effective date.



II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Persons renting or leasing personal watercraft may realize a decrease in profits due to the bill's provision limiting the age of persons who may rent or lease personal watercraft.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

None.

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III. LONG RANGE CONSEQUENCES:

This bill is not inconsistent with the State Comprehensive Plan. However, there is not a specific provision that addresses this issue.

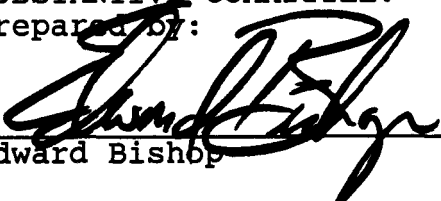
IV. COMMENTS:

This bill is not inconsistent with the committee's mission statement. However, there is not a specific provision that addresses this issue.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

  
\_\_\_\_\_  
Edward Bishop

Staff Director:

\_\_\_\_\_  
Dana D. Minerva

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

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APPROPRIATIONS:

Prepared by:

Staff Director:

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