# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 271 Boating Safety Education
**SPONSOR(S):** Tourism, Infrastructure & Energy Subcommittee
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1658, SB 1562

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| Orig. Comm.: Tourism, Infrastructure & Energy Subcommittee | | Willson | Keating |

## SUMMARY ANALYSIS

The Fish and Wildlife Conservation Commission (FWC) Division of Law Enforcement manages the state's waterways to ensure boating safety for residents of and visitors to the state. This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, and conducting boating accident investigations.

An operator of a vessel in Florida must operate the 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 another person outside the vessel or due to vessel overloading or excessive speed.

Florida law requires that boat operators born on or after January 1, 1988, must obtain a Florida boating safety identification card if the vessel is powered by an engine of 10 horsepower or more. To obtain a card, a person must complete an approved boating safety course.

Federal law requires boaters to use the installed engine cut-off switch on any motorized boat with 3 or more horsepower that is less than 26 feet in length.

The bill requires that an FWC-approved boating safety education course or temporary certificate examination developed or approved by the commission must include a component regarding:

- The risks associated with a passenger placing any portion of an appendage over the outside edge of the vessel while the vessel is underway.
- The proper use of an engine cutoff switch, as appropriate for certain vessels.

The bill does not have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2021.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

### Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.[1] Chapter 327, F.S., concerning vessel safety, is enforced by FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.[2] The Division of Law Enforcement manages the state's waterways to ensure boating safety for residents of and visitors to the state.[3] This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, and conducting boating accident investigations.[4]

### Boater Safety Education

A person born on or after January 1, 1988, who will be operating a boat in Florida waters with an engine of 10 horsepower or more, must obtain a Florida boating safety identification card.[5] To obtain a card, a person must complete an approved boating safety course.[6] There are several courses available at various price points ranging from free up to $50.[7] The course must meet the 8-hour instruction requirement established by the National Association of State Boating Law Administrators and must include a component regarding diving vessels.[8] The card is valid for life, unless it was obtained by passing a temporary certificate examination, in which case it is valid for 90 days after the date of issuance.[9]

Current law requires that any boating safety education course or temporary certificate examination developed or approved by FWC must include a component regarding diving vessels, awareness of divers in the water, divers-down warning devices, and other diver-related requirements provided in current law.[10]

Certain persons are exempt from the requirement to obtain a boating safety identification card. A person is exempt if he or she:

- Is licensed by the United States Coast Guard (Coast Guard) to serve as master of a vessel.
- Operates a vessel only on a private lake or pond.
- Is accompanied in the vessel by a person who is exempt from this section or who holds an identification card in compliance with this section, is 18 years of age or older, and is attendant to the operation of the vessel and responsible for the safe operation of the vessel and for any violation that occurs during the operation of the vessel.
- Is a nonresident who has in his or her possession proof that he or she has completed a boater education course or equivalency examination in another state which meets or exceeds the requirements in Florida.
- Is operating a vessel within 90 days after the purchase of that vessel and has available for inspection aboard that vessel a bill of sale.

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[1] FLA. CONST. art. IV, s. 9.
[2] Section 327.70(1), F.S.
[3] Fish and Wildlife Conservation Commission (FWC), *Boating*, https://myfwc.com/boating/ (last visited Mar. 25, 2021).
[4] FWC, *Law Enforcement*, https://myfwc.com/about/inside-fwc/le/ (last visited Feb. 15, 2021). *See* s. 327.70(1) and (4), F.S.
[5] S. 327.395(1), F.S.
[6] FWC, *Boater Education Identification Card*, https://myfwc.com/boating/safety-education/id/ (last visited Mar. 25, 2021). This card is not a boating license, it is a certification that the person named on the card has successfully completed the required boating safety course.
[7] FWC, *Boating Safety Courses*, https://myfwc.com/boating/safety-education/courses/ (last visited Mar. 25, 2021).
[8] S. 327.395(1), F.S.
[9] S. 327.395(5), F.S.
[10] *See* s. 327.331, F.S.

- Is operating a vessel within 90 days after completing the boater education course and has a photographic identification card and a boater education certificate available for inspection as proof of having completed a boater education course. The boater education certificate must provide, at a minimum, the student's first and last name, the student's date of birth, and the date that he or she passed the course examination.
- Is exempted by FWC rule.[11]

A person who operates a vessel without the required boating safety identification card can be charged with a noncriminal infraction and is subject to a uniform boating citation and a $50 civil penalty.[12]

A livery may not knowingly lease, hire, or rent vessels under certain conditions meant to ensure boater safety.[13] Additionally, a livery may not knowingly lease, hire, or rent any vessel powered by a motor of 10 horsepower or greater to any person who is required to comply with boater safety education requirements, unless the person presents photographic identification and a valid boater safety identification card to the livery or meets one of the listed exemptions.[14]

**Boating Safety Regulations**

An operator of a vessel in Florida must operate the 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 another person outside the vessel or due to vessel overloading or excessive speed.[15] Operating a vessel in excess of a posted speed limit is a civil infraction, for which the penalty is $50.[16]

Vessel owners and operators must carry, store, maintain, and use safety equipment in accordance with current Coast Guard safety equipment requirements, unless expressly exempted.[17] Vessel owners and operators are also subject to additional safety requirements relating to appropriate equipment and the use of personal flotation devices.[18]

*Engine Cut-off Switch*

Effective April 1, 2021, federal law[19] requires boaters to use the engine cut-off switch (ECOS), if such a device is installed, on any motorized boat with 3 or more horsepower that is less than 26 feet in length. Typically, the ECOS link is a coiled bungee cord lanyard clipped onto the operator's person, personal floatation device, or clothing, with the other end attached to the cut-off switch. However many variations exist, including electronic wireless devices. When an operator is wearing a link while underway, the engine will cut-off if the operator is separated from the operating area, which can happen if the operator is ejected from the vessel or falls within the vessel.[20]

According to the Coast Guard's Boating Safety Division, an ECOS is an important tool to prevent unnecessary accidents, injuries, and deaths caused by a recreational vessel operator being unexpectedly displaced from the helm, including situations where the operator is ejected from the vessel, which typically leads to a runaway vessel. In these scenarios anyone in the water is a potential propeller-strike victim, all other vessels on the water face a collision hazard, and maritime law

[11] S. 327.395(6), F.S.
[12] S. 327.73(1)(s), F.S.
[13] S. 327.54(1), F.S. For example, vessels must have proper safety equipment and be seaworthy, and the number of vessel occupants may not exceed the maximum safety load of the vessel.
[14] S. 327.54(2), F.S.
[15] S. 327.33, F.S.
[16] S. 327.73(h), F.S.
[17] S. 327.50, F.S.
[18] *Id.*
[19] 46 U.S.C. § 4312
[20] United States Coast Guard, *Engine Cut-Off Switches,* https://uscgboating.org/recreational-boaters/engine-cut-off-devices.php (last visited Mar. 25, 2021).

enforcement officers face additional risk in trying to bring the runaway vessel to a stop. Additionally, the use of an ECOS may aid the operator in safely returning to the drifting vessel.[21]

In 2018, Congress required vessel manufactures to install an ECOS. However, most U.S. boat manufacturers have voluntarily installed an ECOS on their boats for decades.[22]

Florida law requires that operators of personal watercraft[23] 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 appropriate for the specific vessel.[24]

Effect of the Bill

The bill requires that an FWC-approved boating safety education course or temporary certificate examination developed or approved by the commission must include a component regarding:

- The risks associated with a passenger placing any portion of an appendage over the outside edge of the vessel while the vessel is underway.
- The proper use of an engine cutoff switch, as appropriate for certain vessels.

B. SECTION DIRECTORY:

**Section 1** Amends s. 327.395, F.S.; relating to boating safety education.

**Section 2** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

[21] United States Coast Guard, *Engine/Propulsion Cut-Off Devices FAQ*, https://uscgboating.org/recreational-boaters/engine-cut-off-switch-faq.php (last visited Mar. 25, 2021).
[22] USCG, *Engine Cut-Off Switches, supra.*
[23] Section 327.02(36), F.S. defines "Personal watercraft" as "a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel."
[24] S. 327.39(2), F.S.

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES