



Highway & Waterway Safety Subcommittee

MEETING PACKET

Wednesday, February 4, 2015
10:00 AM – 12:00 PM
116 Knott Building

Steve Crisafulli
Speaker

W. Gregory Steube
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Highway & Waterway Safety Subcommittee

Start Date and Time: Wednesday, February 04, 2015 10:00 am

End Date and Time: Wednesday, February 04, 2015 12:00 pm

Location: 116 Knott Building

Duration: 2.00 hrs

Consideration of the following bill(s):

HB 51 Disabled Parking Permits by Murphy

HB 145 Commercial Motor Vehicle Review Board by Beshears

HB 241 Personal Flotation Devices by Trumbull

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Tuesday, February 3, 2015.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, February 3, 2015.

NOTICE FINALIZED on 01/28/2015 16:12 by Lawhon.Amanda

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 51 Disabled Parking Permits
SPONSOR(S): Murphy
TIED BILLS: IDEN./SIM. **BILLS:** SB 132

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee		Whittaker <i>WD</i>	Smith <i>MS</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill prohibits the Department of Highway Safety and Motor Vehicles from requiring a veteran previously evaluated and certified by the United States Department of Veterans Affairs as permanently and totally disabled from a service connected disability to resubmit a certificate of disability in order to renew his or her disabled parking permit.

The bill has a negative, but insignificant impact on state funds.

The bill will take effect July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation:

Disabled Parking Permits

Section 320.0848 authorizes the Department of Highway Safety and Motor Vehicles or its authorized agents, upon application and payment, to issue a disabled parking permit, valid for up to four years in which the period ends on the applicant's birthday, to any person who has long-term mobility impairment, or a temporary disabled parking permit not to exceed six months, if a temporary mobility impairment exists. No person is required to pay a fee for a parking permit for disabled persons more than once in a 12-month period.

A person applying for a disabled parking permit must be currently certified as being legally blind or as having any of the following disabilities that render him or her unable to walk 200 feet without stopping to rest:

- The inability to walk without the use of or assistance from a brace, cane, crutch, prosthetic device, or other assistive device, or without the assistance of another person.
- The need to permanently use a wheelchair.
- Restriction by lung disease as measured within specified limits.
- The use of portable oxygen.
- Restriction by cardiac condition when classified in severity as Class III or Class IV.
- The severe limitation in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

The certification of disability must be provided by a licensed physician, podiatrist, optometrist, advanced registered nurse practitioner, or physician's assistant, any of which must be licensed under one of various chapters of Florida Statute. Provisions are also provided for certification by similarly-licensed physicians from other states. The certification must include:

- The disability of the applicant.
- The certifying practitioner's name, address, and certification number.
- The eligibility criteria for the permit.
- The penalty for falsification by either the certifying practitioner or the applicant.
- The duration of the condition that entitles the person to the permit.
- The statement, in bold letters: "A disabled parking permit may be issued only for a medical necessity that severely affects mobility."
- The signatures of the certifying physician, the applicant, and the authorized department employee who is processing the application.

To renew a long-term disabled parking permit, the permit holder is required to recertify her or her eligibility by providing a certificate of disability issued within the last 12 months. Recertification of a disability is also required when obtaining a replacement for a disabled parking permit that has been lost or stolen. Long-term disabled parking permits do not require a renewal fee and the fee for obtaining a replacement permit is \$1.

A disabled parking permit is a placard that is visible from the front and the rear of a vehicle and is usually hung from the rear-view mirror. Each side of the placard has the international symbol of accessibility in a contrasting color in the center so as to be visible on each side of the parking placard. On one side of the placard is the applicant's driver license number or state identification card number and a warning that the applicant must have such identification at all times while using the placard, and

on the other side is the month and year of expiration. Validation stickers must be of the size specified by the department and be affixed to the disabled parking permits. The disabled parking permits use the same color (lemon yellow) decal as license plate validations.

The department may not issue an additional disabled parking permit unless the applicant states that he or she is a frequent traveler or a quadriplegic. The department may not issue to any one eligible applicant more than two disabled parking permits except to an organization under certain conditions.

Permanent Total Disability Rating

The ability to overcome the handicap of disability varies widely among individuals. The rating, however, is based primarily upon the average impairment in earning capacity, that is, upon the economic or industrial handicap which must be overcome and not from individual success in overcoming it.

However, full consideration must be given to unusual physical or mental effects in individual cases, to peculiar effects of occupational activities, to defects in physical or mental endowment preventing the usual amount of success in overcoming the handicap of disability and to the effect of combinations of disability. Total disability will be considered to exist when there is present any impairment of mind or body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation; provided that permanent total disability shall be taken to exist when the impairment is reasonably certain to continue throughout the life of the disabled person. The following will be considered to be permanent total disability:

- the permanent loss of the use of both hands;
- the permanent loss of the use of both feet;
- the permanent loss of the use of one hand and one foot;
- the permanent loss of the sight of both eyes; or
- becoming permanently helpless or permanently bedridden.¹

Service Connected Disability

The United States Department of Veterans Affairs defines a "service connected disability" as veterans who are disabled by an injury or illness that was incurred or aggravated during active military service.²

Veterans and Service members must be determined eligible to receive compensation for permanent and total service-connected disability due to one of the following:

- The loss, or loss of use of both lower extremities, which so affects the functions of balance or propulsion to preclude ambulating without the aid of braces, crutches, canes or a wheelchair.
- The loss, or loss of use of both upper extremities at or above the elbow.
- Blindness in both eyes, having only light perception, plus loss or loss of use of one lower extremity.
- The loss, or loss of use of one lower extremity together with either residuals of organic disease or injury, or the loss, or loss of use of one upper extremity which so affects the functions of balance or propulsion as to preclude locomotion without the use of braces, canes, crutches or a wheelchair.
- Severe burn injuries, which are defined as full thickness or subdermal burns that have resulted in contractures with limitation of motion of two or more extremities or of at least one extremity and the trunk.

¹ http://www.ecfr.gov/cgi-bin/text-idx?SID=4a2fb98e3f523491f7ef4f734c8ece1c&node=se38.1.4_115&rgn=div8 (last viewed 12/31/14)

² www.va.gov/vetdata/Glossary.asp (last viewed 12/31/14)

- The loss, or loss of use of one or more lower extremities due to service on or after Sept. 11, 2001, which so affects the functions of balance or propulsion as to preclude ambulating without the aid of braces, crutches, canes, or a wheelchair.³

Proposed Changes:

This bill prohibits the Department of Highway Safety and Motor Vehicles from requiring a veteran previously evaluated and certified by the United States Department of Veterans Affairs as permanently and totally disabled from a service connected disability to resubmit a certificate of disability in order to renew his or her disabled parking permit.

B. SECTION DIRECTORY:

Section 1 Amends s. 322.0848, F.S., related to persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.

Section 2 Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has a negative, but insignificant impact on state funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

³ http://www.va.gov/opa/publications/benefits_book/benefits_chap02.asp (last viewed 12/31/14)

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to disabled parking permits; amending
 3 s. 320.0848, F.S.; prohibiting the Department of
 4 Highway Safety and Motor Vehicles from requiring
 5 certain veterans to resubmit a certificate of
 6 disability for renewal of a disabled parking permit;
 7 providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Paragraph (d) of subsection (1) of section
 12 320.0848, Florida Statutes, is amended to read:

13 320.0848 Persons who have disabilities; issuance of
 14 disabled parking permits; temporary permits; permits for certain
 15 providers of transportation services to persons who have
 16 disabilities.-

17 (1)

18 (d) ~~Beginning October 1, 2012,~~ The department shall renew
 19 the disabled parking permit of any person certified as
 20 permanently disabled on the application if the person provides a
 21 certificate of disability issued within the last 12 months
 22 pursuant to this subsection. The department may not require a
 23 veteran who has been previously evaluated and certified by the
 24 United States Department of Veterans Affairs as permanently and
 25 totally disabled from a service-connected disability to resubmit
 26 a certificate of disability in order to renew his or her

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27 | disabled parking permit.

28 | Section 2. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 145 Commercial Motor Vehicle Review Board

SPONSOR(S): Beshears

TIED BILLS: IDEN./SIM. BILLS: SB 220

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee		Whittaker	Smith
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The Commercial Motor Vehicle Review Board (Board) is the state entity created in statute that functions to consider protested commercial vehicle citations. The board may review, sustain, modify, cancel, or revoke any penalty imposed on any vehicle or person under the provisions of chapter 316, F.S., relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations. Any person may, upon payment of their penalty, apply to the Board for a modification, cancellation, or revocation of a penalty for violations of certain commercial vehicle regulations. The board is part of the Florida Department of Transportation (FDOT) and has three permanent members, the Secretary of the Department of Transportation, the Executive Director of the Department of Highway Safety and Motor Vehicles (DHSMV), and the Commissioner of Agriculture, or their authorized representatives.

This bill revises the membership of the Board by adding four appointed members who have private experience in the state of Florida. The Governor will appoint three of the members from the private sector, one member from the road construction industry, one member from the trucking industry, and one member with a general business or legal background. The Commissioner of Agriculture will appoint the final member of the review board from the agriculture industry. Appointments must be made by September 1, 2015, for terms beginning October 1, 2015.

The bill provides that the Governor may remove appointed members of the Board for misconduct, malfeasance, misfeasance, or nonfeasance in office. Each member must take an oath of office pledging to honestly, faithfully, and impartially perform their duties before beginning official action on the Board.

The bill provides that official action may only be taken by a quorum of the Board. Four members will constitute a quorum.

It is unknown whether this bill will result in changes to the number of citations heard by the Board or the amount of refunds granted. Changes to the amount of funds received from commercial motor vehicle compliance penalties would impact the State Transportation Trust Fund.

The fiscal impact of this bill is indeterminate. See Fiscal Comments.

The effective date of the bill is July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

Currently, enforcement of commercial motor vehicle compliance is carried out by DHSMV¹ and motor vehicle weight inspections are carried out by FDOT.² Any individual or vehicle who receives a penalty under the provisions of Ch. 316 relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations may, upon payment of their penalty³, apply to the Board to have their penalty reconsidered. The Board is then authorized to modify, cancel, revoke, or sustain each penalty.⁴

Specifically, the Board reviews testimony or other evidence supporting the modification, cancellation, or revocation of penalties upon receipt of their payment imposed pursuant to sections:

- 316.516, F.S., regarding size restrictions of width, height, or length;
- 316.545, F.S., regarding weight and load violations and special fuel and motor fuel tax violations;
- 316.550, F.S., regarding operating an oversize or overweight vehicle without a special permit; and
- 316.3025, F.S., regarding operating an unsafe and out of service vehicle, texting while driving a commercial vehicle, or unsafe handling of hazardous cargo.

The Commercial Motor Vehicle Review Board currently resides within the FDOT. The Board consists of three permanent members who are the Secretary of the FDOT, the executive director of the DHSMV and the Commissioner of Agriculture, or their authorized representatives. Each permanent member of the review board may designate one additional person to be a member of the review board.

The Board may hold sessions and conduct proceedings at any place within the state. The Review Board is scheduled to meet monthly in 2015 and the locations will rotate from Ft. Lauderdale, Tallahassee, Orlando, and Tampa.⁵

Pursuant to s. 112.061, F.S., as state officers and employees, each member receives reimbursement for travel expenses and per diem relating to their service on the Board.⁶

The following chart represents case volumes and outcomes for the Board during fiscal years 2011-2012 and 2012-2013:

Commercial Motor Vehicle Review Board⁷				
Year	# of Citations Considered	# of Cases Granted Relief	# of Cases Full Relief	# of Cases Partial Relief
FY 2011-12	862	283	103	180
FY 2012-13	813	308	133	175

¹ S. 20.24, F.S.

² S. 20.23, F.S.

³ Florida Administrative Code 14A-1.004

⁴ S. 316.545 (8), F.S.

⁵ www.dot.state.fl.us/trafficoperations/Traf_Incident/CMVRB/CMVRB.shtm (last viewed 1/8/15)

⁶ www.dot.state.fl.us/trafficoperations/Traf_Incident/CMVRB/CMVRB.shtm (last viewed 1/8/15)

⁷ DOT analysis for HB 537 (2014 session) on file with the Highway and Waterway Safety Subcommittee

Decisions

The Review Board renders its decision within 30 days after the meeting at which the protest was heard and notifies the person of its decision in writing via a disposition letter. The disposition letter is delivered by U.S. Mail. Pursuant to Rule 14A-1.004(7), Florida Administrative Code, the Review Board's decision is final.

Rehearing

A rehearing may be requested only if additional evidence is presented. Individuals may request a rehearing by filing such a request within fifteen (15) days of the date of the disposition letter.⁸

Refunds

If the Review Board votes to give a partial or full refund of a citation fine, a refund will be issued by check in a timely manner. Checks are issued by the Florida Department of Highway Safety and Motor Vehicles (DHSMV).⁹

Proposed Changes:

This bill revises the membership of the Board by four additional members. The Governor will appoint three members from the private sector, one member from the road construction industry, one member from the trucking industry, and one member with a general business or legal background. The Commissioner of Agriculture will appoint the final member of the review board from the agriculture industry. The appointed members must be registered voters and citizens of the state of Florida, and possess business experience in the private sector. Each of the three permanent members of the Board will no longer have the power to appoint an additional member.

Each appointed member will serve a two-year term on the Board. The appointments to the Board must be made no later than September 1, 2015, for terms beginning October 1, 2015. A vacancy on the Board occurring during a term of an appointed member will only be filled for the balance of the unexpired term. The governor may remove members from the board for misconduct, malfeasance, misfeasance, or nonfeasance in office. Each member is required to take and subscribe to an oath before an official authorized by law to administer oaths prior to entering upon his or her official duties. The oath declares that he or she that he or she will honestly, faithfully, and impartially perform the duties devolving upon him or her in office as a member of the review board and that he or she will not neglect any duties imposed upon him or her by ss. 316.3025, 316.550, or 316.545, Florida Statutes.

Four members of the Board will constitute a quorum, and the vote of four members shall be necessary for any action taken by the board. A vacancy on the board cannot impair the right of a quorum of the board to exercise all of the rights and perform all of the duties of the board.

The bill removes the ability of the Board to execute its responsibilities by meeting as subgroups.

B. SECTION DIRECTORY:

Section 1 Amends s. 316.545, F.S. to revise the membership of the board, require additional appointments of members by the Governor and the Commissioner of Agriculture, provide qualifications and terms for the appointees, and specifies

⁸ www.dot.state.fl.us/trafficoperations/Traf_Incident/CMVRB/CMVRB.shtm (last viewed 1/8/15)

⁹ www.dot.state.fl.us/trafficoperations/Traf_Incident/CMVRB/CMVRB.shtm (last viewed 1/8/15)

board quorum requirements; provides for removal of appointed members by the Governor; removes the ability of each permanent member to designate an additional member; removes the ability of the board to meet as subgroups.

Section 2 Provides for appointments to be made by September 1, 2015, for terms to begin on October 1, 2015.

Section 3 Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comment.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Potential positive impact on the private sector as determined by the number of citations the Board hears and the number of refunds of a citation fine.

D. FISCAL COMMENTS:

It is unknown whether this bill will result in changes to the number of citations heard by the Board or the amount of refunds granted. Changes to the amount of funds received from commercial motor vehicle compliance penalties would impact the State Transportation Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Commercial Motor Vehicle Review
 3 Board; amending s. 316.545, F.S.; revising the
 4 membership of the board; providing for appointment of
 5 additional members by the Governor and the
 6 Commissioner of Agriculture; providing for terms of
 7 the additional members; providing qualifications for
 8 such members; providing for removal of members by the
 9 Governor under certain circumstances; providing for
 10 action by a quorum of the board; requiring that the
 11 additional appointments be made by a specified date;
 12 providing effective dates.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Effective October 1, 2015, subsection (7) of
 17 section 316.545, Florida Statutes, is amended to read:

18 316.545 Weight and load unlawful; special fuel and motor
 19 fuel tax enforcement; inspection; penalty; review.-

20 (7) There is created within the Department of
 21 Transportation the Commercial Motor Vehicle Review Board,
 22 consisting of three permanent members who shall be the Secretary
 23 of ~~the Department of~~ Transportation, the executive director of
 24 the Department of Highway Safety and Motor Vehicles, and the
 25 Commissioner of Agriculture, or their authorized
 26 representatives, and four additional members appointed pursuant

27 | to paragraph (b), which may review any penalty imposed upon any
 28 | vehicle or person under the provisions of this chapter relating
 29 | to weights imposed on the highways by the axles and wheels of
 30 | motor vehicles, to special fuel and motor fuel tax compliance,
 31 | or to violations of safety regulations.

32 | (a) The Secretary of ~~the Department of~~ Transportation or
 33 | his or her authorized representative shall be the chair of the
 34 | review board.

35 | (b) The Governor shall appoint one member from the road
 36 | construction industry, one member from the trucking industry,
 37 | and one member with a general business or legal background. The
 38 | Commissioner of Agriculture shall appoint one member from the
 39 | agriculture industry. Each member appointed under this paragraph
 40 | must be a registered voter and citizen of the state and must
 41 | possess business experience in the private sector. Members
 42 | appointed pursuant to this paragraph shall each serve a 2-year
 43 | term. A vacancy occurring during the term of a member appointed
 44 | under this paragraph shall be filled only for the remainder of
 45 | the unexpired term. Members of the board appointed under this
 46 | paragraph may be removed from office by the Governor for
 47 | misconduct, malfeasance, misfeasance, or nonfeasance in office
 48 | ~~Each permanent member of the review board may designate one~~
 49 | ~~additional person to be a member of the review board.~~

50 | (c) Each member, before entering upon his or her official
 51 | duties, shall take and subscribe to an oath before an official
 52 | authorized by law to administer oaths that he or she will

53 honestly, faithfully, and impartially perform the duties
 54 devolving upon him or her in office as a member of the review
 55 board and that he or she will not neglect any duties imposed
 56 upon him or her by s. 316.3025, s. 316.550, or this section ~~The~~
 57 ~~review board may execute its responsibilities by meeting as a~~
 58 ~~single group or as subgroups consisting of one authorized~~
 59 ~~representative of each permanent member.~~

60 (d) The chair of the review board is responsible for the
 61 administrative functions of the review board.

62 (e) Four members of the board shall constitute a quorum,
 63 and the vote of four members shall be necessary for any action
 64 taken by the board. A vacancy on the board shall not impair the
 65 right of a quorum of the board to exercise all of the rights and
 66 perform all of the duties of the board.

67 ~~(f)(e)~~ The review board may hold sessions and conduct
 68 proceedings at any place within the state.

69 Section 2. The appointment of additional members to the
 70 Commercial Motor Vehicle Review Board in accordance with the
 71 changes made by this act to s. 316.545, Florida Statutes, shall
 72 be made by September 1, 2015, for terms beginning October 1,
 73 2015.

74 Section 3. Except as otherwise expressly provided in this
 75 act, this act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 241 Personal Flotation Devices

SPONSOR(S): Trumbull

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee		Whittaker <i>Whittaker</i>	Smith <i>Smith</i>
2) Economic Affairs Committee			

SUMMARY ANALYSIS

Florida law specifically requires life jackets to be worn when operating personal watercraft¹, for children younger than six², and for certain watersports such as skiing and tubing³. Florida law also defers to U.S. Coast Guard approved life jackets, specified by type, as the authorized safety equipment on Florida waters. This bill repeals language specifying the labeled "type codes" (I, II, III, IV, and V) and replaces it with the phrase "and used in accordance with the U. S. Coast Guard approval label".

The U.S. Coast Guard is in the process of eliminating the classification of life jackets by "type" in Federal code, classifying them instead based on their buoyancy, size, and intended use to make it easier for the public to understand.

The bill has no fiscal impact on state funds.

The bill has an effective date of July 1, 2015.

¹ ss. 327.39(1), F.S.

² ss. 327.50(1)(b), F.S.

³ ss. 327.37(2)(b), F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation:

Federal and state law requires all recreational boats to carry life jackets in sufficient quantity and correct type so that each individual on the boat has at least one wearable life jacket. Any boat 16ft and longer (except canoes and kayaks) must also carry at least one throwable life jacket.⁴

There are five official "types" of personal flotation devices approved by the Coast Guard and referenced in Florida Statute. The types are specified on the label of life jackets and are described below:

Type I – Off Shore Life Jacket⁵

Best for all waters, open ocean, rough seas, or remote water, where rescue may be slow coming.

Type II – Near Shore Vest⁶

For general boating activities. Good for calm, inland waters, or where there is a good chance for fast rescue.

Type III – Flotation Aid⁷

For general boating or the specialized activity that is marked on the device such as water skiing, hunting, fishing, canoeing, kayaking and others. Good for calm, inland waters, or where there is a good chance for fast rescue.

Type IV – Throwable Devices

These are either rings or cushions designed to be thrown to someone in the water.

Type V – Special-Use Devices⁸

Only for special uses or conditions. These devices include hybrid inflatable personal flotation devices, canoe/kayak vest, boardsailing vest, deck suits, work vests for commercial vessels, man-overboard rescue devices, and law enforcement flotation devices.

There are additional specific requirements in Florida law which mandate that life jackets are to be worn by persons participating in certain water sports and for children:

1. Section 327.37(1)(b), F.S., requires each person engaged in water skiing, parasailing, aquaplaning, or any similar activity unless such person is wearing a noninflatable type I, type II, type III, or type V personal flotation device approved by the Coast Guard.
2. Section 327.39(1), F.S. requires each person operating, riding, or being towed by a personal watercraft wear a type I, type II, type III, or type V personal flotation device approved by the Coast Guard.
3. Section 327.50(1)(b), F.S., requires children under six years of age on board a vessel less than 26 feet in length to wear a type I, type II, or type III Coast Guard approved personal flotation device.

⁴ United States Coast Guard, http://www.uscgboating.org/safety/life_jacket_wear_wearing_your_life_jacket.aspx. (Last viewed 1/28/15)

⁵ United States Coast Guard, <http://www.uscg.mil/hq/cg5/cg5214/pfdselection.asp>. (Last viewed 1/28/15)

⁶ Id.

⁷ Id.

⁸ Id.

Proposed Changes:

The U.S. Coast Guard (Coast Guard) is in the process of eliminating the "type codes" specified on the label of life jackets in Federal code and classifying them instead based on their buoyancy, size and intended use. The result will be new labels that contain specific fields of information intended to improve the ability of the consumer to understand what activities a specific device is approved for and how it can be expected to perform in the water.⁹

Specifically, this bill amends subsections 327.37(1)(b), 327.39(1), and 327.50(1)(b), F.S., repealing the references to the "type" codes for personal flotation devices in Florida law and inserts the phrase, "and in accordance with the U.S. Coast Guard approval label". This modification will allow personal flotation devices that are currently labeled by "type" and those that will be labeled under the new classification system to be acceptable to meet state laws.

B. SECTION DIRECTORY:

- Section 1 Amends ss. 327.37(1)(b), F.S., repeals the specified type codes and inserts the phrase "and used in accordance with the United States Coast Guard approval label."
- Section 2 Amends ss. 327.39(1), F.S., repeals the specified type codes and inserts the phrase "and used in accordance with the United States Coast Guard approval label."
- Section 3 Amends ss. 327.50(1)(b), F.S., repeals the specified type codes and inserts the phrase "approved by the United States Coast Guard and used in accordance with the United States Coast Guard approval label."
- Section 4 Provides an effective date of July 1, 2015.

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:

⁹ FWC 2015 Session Legislative Proposal on Life Jackets, on file with the Highway & Waterway Safety Subcommittee.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to personal flotation devices;
 3 amending ss. 327.37, 327.39, and 327.50, F.S.;
 4 requiring that personal floatation devices be used in
 5 accordance with the United States Coast Guard approval
 6 label during operation of certain vessels or personal
 7 watercraft or while engaged in water skiing,
 8 parasailing, aquaplaning, and similar activities;
 9 providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Paragraph (b) of subsection (2) of section
 14 327.37, Florida Statutes, is amended to read:

15 327.37 Water skis, parasails, aquaplanes, kiteboarding,
 16 kitesurfing, and moored ballooning regulated.—

17 (2)

18 (b) A person may not engage in water skiing, parasailing,
 19 aquaplaning, or any similar activity unless such person is
 20 wearing a noninflatable ~~type I, type II, type III, or type V~~
 21 personal flotation device approved by the United States Coast
 22 Guard and used in accordance with the United States Coast Guard
 23 approval label.

24 Section 2. Subsection (1) of section 327.39, Florida
 25 Statutes, is amended to read:

26 327.39 Personal watercraft regulated.—

27 (1) A person may not operate a personal watercraft unless
 28 each person riding on or being towed behind such vessel is
 29 wearing a ~~type I, type II, type III, or type V~~ personal
 30 flotation device, other than an inflatable device, approved by
 31 the United States Coast Guard and used in accordance with the
 32 United States Coast Guard approval label.

33 Section 3. Paragraph (b) of subsection (1) of section
 34 327.50, Florida Statutes, is amended to read:

35 327.50 Vessel safety regulations; equipment and lighting
 36 requirements.—

37 (1)

38 (b) A ~~No~~ person may not ~~shall~~ operate a vessel less than
 39 26 feet in length on the waters of this state unless every
 40 person under 6 years of age on board the vessel is wearing a
 41 ~~type I, type II, or type III Coast Guard approved~~ personal
 42 flotation device approved by the United States Coast Guard and
 43 used in accordance with the United States Coast Guard approval
 44 label while such vessel is underway. For the purpose of this
 45 section, "underway" means ~~shall mean~~ at all times except when a
 46 vessel is anchored, moored, made fast to the shore, or aground.

47 Section 4. This act shall take effect July 1, 2015.