



Florida Fish and Wildlife Conservation Commission

Legislative Affairs

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Legislative Proposal Form

2007 Session

Title: Boating Safety Education

Submitted by Division/Office/Institute: Law Enforcement

Lead Person: Captain Richard Moore

I. Summary of Issue

Currently Section 327.395, Florida Statutes, requires persons 21 years of age and younger to carry proof of completion of a boating safety course when operating boats with 10 horsepower or more. Since its enactment in 1996, the number of operators within the affected age group who were involved in reportable boating accidents has declined from greater than 21% in 1995 to 14% in both 2004 and 2005.

Unfortunately, Florida's fatal boating accidents have been claiming increasing numbers of lives each year. Both the U. S. Coast Guard and other states have released information or reports that show a correlation between increased boating safety education, especially among older operator age groups, and lower accident and fatality rates.

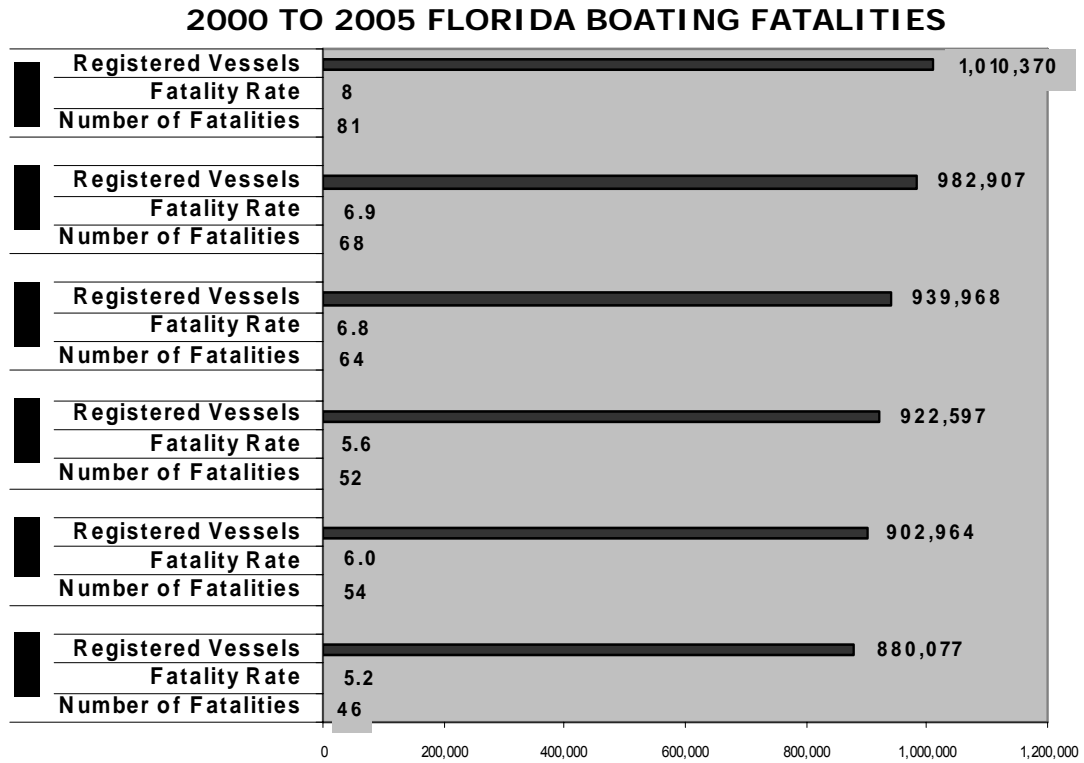
During their April 2006 meeting, Florida's Boating Advisory Council (BAC) was presented facts about Florida's boating fatality statistics, reports on boater education effectiveness, and the need to reverse the boating fatality trend in our state. With a goal of reducing boating accidents, injuries, and fatalities while improving basic boating knowledge among Florida's boating population, the BAC voted to recommend that the FWC pursue legislation to require boating safety education for all boat operators using a quick phase-in method.

This proposal is a result of the BAC recommendation and informal discussions of the issue with stakeholders. As presented, by the year 2018 this legislation will require boat operators of all ages to take a boating safety course and obtain proof of course completion in order to operate a boat with 10 horsepower or more. The initial affected group would be operators 25 and under in 2008 and would increase in 5-year increments annually through 2018.

II. Substantive Analysis

A. Present Situation

One benchmark upon which boating safety efforts are measured, both at the national and state levels, is the annual number of recreational boating fatalities. Boating fatalities reported in Florida during 2005 were at the highest number in the previous ten-year period (81 fatalities). Although most other states have been experiencing declining fatality numbers for the past several years, Florida's fatality trend continues to rise. Fatality trends are depicted in the following graph:

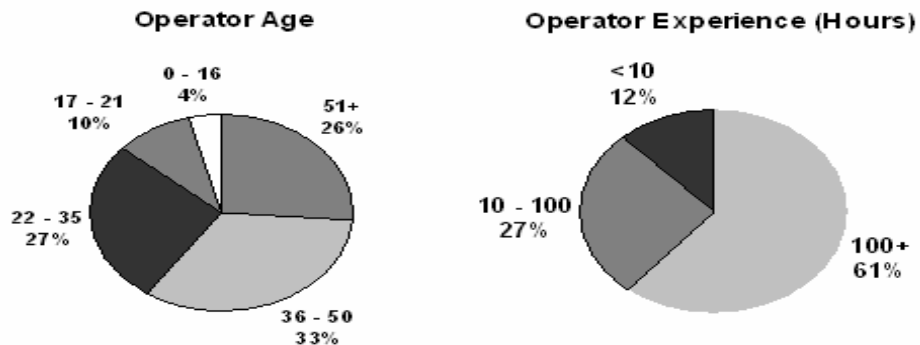


It is apparent that boating fatalities in Florida are rising at a rate much greater than the rate of growth of registered boats. In fact, fatalities rose 76.1% between 2000 and 2005, while the boat registration increase during this time period was 14.8%.

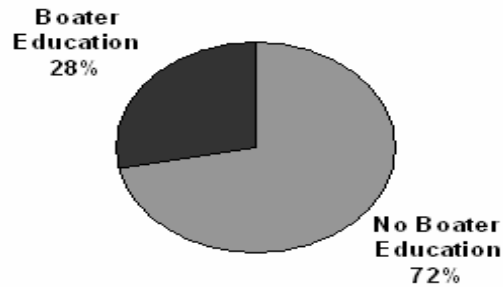
The people involved in boating accidents and fatalities are not primarily young, inexperienced boat operators. Boat operators involved in boating accidents are most often older adults (36 years of age and older), have more than 100 hours of boat operation experience, and have no formal boating safety education. This fact is even more evident in Florida's boating accidents involving at least one fatality. The statistics show that simply having more hours of boating "experience" does not equate to reduced risk of having an accident.

The following graphs depict ages, experience levels, and formal boating safety education for operators involved in both boating accidents in general and those resulting in at least one fatality during 2005.

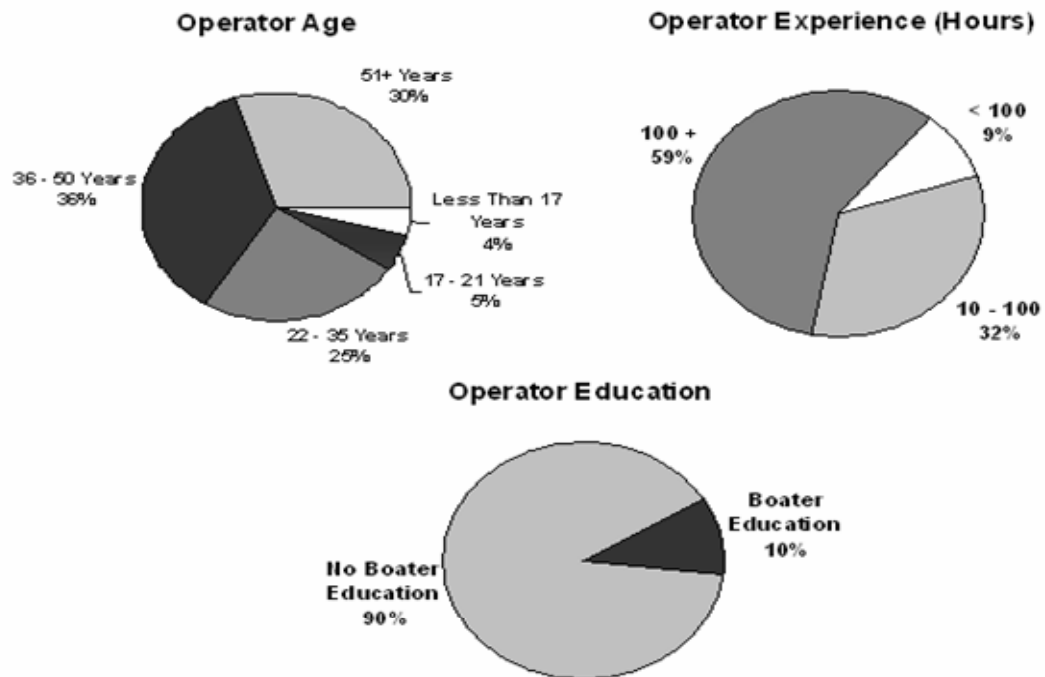
Reportable Boating Accidents - 2005



Boat Operator Education



Fatal Boating Accidents - 2005



This snapshot shows that in 2005 a disproportionately larger number of boat operators who did not complete a boating education course were involved in fatal accidents. This trend is consistent with that of previous years.

Boating accidents are most often caused by operator-controllable factors, such as carelessness, inattention, navigation rule violations, poor choices during bad weather, inexperience, and consuming alcohol. The boating safety education courses addressing both state and national standards cover these topics in detail. Without some form of boating safety education requirement, boat operators are likely to never be exposed to the critical information necessary to properly identify areas of greatest risk and avoid potential problems on the water.

Boater Opinions

Several surveys of recreational boaters have indicated consistent support for requiring all boat operators to be educated. Supporting survey data is as follows:

1998 Florida Boater Safety and Education Review. This survey was conducted by the Survey Research Laboratory of Florida State University under contract for the Florida Department of Environmental Protection – Division of Law Enforcement. There were 1,057 eligible respondents representing a cross-section of Florida's registered boat owner population who participated in the survey (41 percent response rate). When asked to identify how important boating safety education was to them, 95.4% of the respondents indicated that it was important to them.

2002 National Recreational Boating Survey. This survey was conducted by the Strategic Research Group under contract with the U.S. Coast Guard's Office of Boating Safety. This national survey sampled boat owners around the nation, including over 500 individuals from Florida. Of the responding boat owners, 73.8% said that people who operate boats should be required to pass a test to demonstrate their knowledge of boating laws.

2005-06 Florida Boating Safety Awareness Campaign Surveys. Surveys were conducted to solicit registered boat owners in Broward, Lee, Miami-Dade, and Monroe counties to respond via the Internet to a series of questions as part of ongoing boating safety awareness campaigns. Over 680 responses were received. Although these surveys were not intended to address public opinion on boating safety education issues, one open-ended question offered respondents a forum through which they could identify any changes they would most like to see regarding boating regulations in their area. This was not a multiple choice question, but respondents were required to generate an answer and type it in. In the Lee County survey, 203 responses were received to this question. The leading desired change dealt with speed zones (52%). The second leading desired change was a requirement for boating safety education for boat operators (21%). In the Broward, Miami-Dade and Monroe survey,

boating safety education and increased law enforcement tied for the most desired changes (24% each). In another question, respondents to both surveys identified inadequate boating safety education as one of the leading safety issues that concern them while boating (from 30.5% to 37%).

2006 Florida Recreational Boating Survey. The FWC's Boating and Waterways Section is currently finalizing a survey document that will be sent to a random sampling of registered boat owners throughout Florida. Boat owner attitudes about boater education, among other topics, will be available when the survey results have been tabulated. The data is anticipated to be complete in late August.

Florida's Manatee Forum. During a recent meeting, this group of stakeholders representing boating and environmental interests voted to support boating safety education. Boating courses approved in Florida are required to contain components relating to protection of our resources such as seagrass beds and manatees. These courses teach boaters to avoid shallow seagrass areas and to properly respond when they inadvertently venture into these sensitive areas. Additionally, attendees are taught to recognize indications of manatees in an area and the need to subsequently slow down.

Education Effectiveness

Boating safety education requirements vary considerably around the nation. The following provides an overview of boating safety education requirements for the states and territories:

- All ages by a certain date -- 6 States/Territories (AL, CT, OR, WA, DC, and NJ)
- All ages PWC only -- 2 States (ID and NY)
- Born after date (all different dates) -- 18 States/Territories (AR, DE, KS, LA, MD, MS, MO, NV, NH, NM, PA, OH, TN, VT, WV, WI, USVI, PR)
- PWC children education (all different ages) -- 7 States -- (IA, MN, NC, RI, UT, VA, MA)
- Education children (all different ages) --13 States (CO, FL, GA, IL, IN, KY, MI, MT, NE, ND, OK, SC, TX)
- No education requirement-- 10 States/Territories (NMI, GU, AS, SD, WY, ME, HI, AK, AZ, CA)

Florida's current boater education law places a requirement for education on those persons 21 years of age and younger. Since its enactment in 1996, the number of operators within the affected age group involved in reportable boating accidents has gradually declined from greater than 21% in 1995 to 14% in both 2004 and 2005. While this decrease provides some evidence of the effectiveness of boating safety education, 86% of Florida's boating accidents reported in 2005 involved operators who were 22 and older. Over half (59%) were 36 and older (critical target audience). The limited "reach" of Florida's

current law is unlikely to extend basic boating safety education to a broad segment of the target audience, especially those who remain exempted while under 22 and those who begin operating a boat when 22 or older.

Based on recent research published in a draft report titled, "*A Comparative Analysis of Recreational Boating Policies: Quick Phase-In Education vs. Other Educational Policies*," individual states with requirements for all boat operators, regardless of age, to be properly educated over a short period of time have experienced significant and sustained reductions in boating fatalities. Two states with a quick phase-in of education for all boaters (Alabama and Connecticut) were contrasted with their bordering states and the rest of the nation.

The research established that states which have elected to implement a quick phase-in education requirement have shown a greater improvement in their fatal accident rate (number of fatal accidents per 100,000 registered vessels) when compared to the rest of the United States. The research further predicts that states that implement quick phase-in requirements could first expect normal fluctuations in the fatal accident rate. After the quick phase-in period, the fatal accident rate would decline for a few years before leveling off at a value that is approximately 25-percent lower.

Requests for Change to Current Law

The FWC has observed a continuing trend relating to public demand for increased requirements for boater education and/or operator licensing requirements for many years. Staff frequently responds to public email and telephone inquiries about Florida's lack of education/licensing requirements for the entire boating population. Although boat operator licensing and boater education are often used synonymously by the public, the issue being brought for consideration only addresses the need for improved boating safety education.

During their April 2006 meeting in Tallahassee, the BAC formally recommended the FWC to pursue legislation requiring boat operators of all ages to take an education course through a 3 to 5-year phase-in process. Member Kitty Higgins, National Transportation Safety Board (NTSB), presented the NTSB's listing of boater education as one of its "Most Wanted Transportation Safety Improvements for 2006." Further evidence was presented to the BAC showing that quick phase-in of boater education for all boat operators in other states has resulted in significant and sustained decreases in boating deaths. The BAC passed a recommendation for a boating safety education requirement for all boat operators to be phased-in within three-to-five years, starting with the oldest age-groups and working down.

The FWC recommendation places great value on the BAC's desire to see a quick phase-in of boating safety education for Florida's boat operators. A review of a similar boater education requirement currently in effect in Oregon, coupled

with informal discussions with various stakeholders having significant boating interests in Florida, led staff to a proposal that upholds the spirit of the BAC's recommendation while blending in issues brought forth by stakeholders.

First, staff recommends a somewhat slower phase-in period in an order of increasing age. Based on stakeholder comments and a combination of both fiduciary and staffing issues, a phase-in period encompassing five-year increasing age increments appears to be a more viable alternative to the ten-year decreasing age increments (or more) proposed by the BAC. This would lead to boating safety education reaching all boat operators within eleven years, as indicated in the following chart:

Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Age	≤ 25	≤ 30	≤ 35	≤ 40	≤ 45	≤ 50	≤ 55	≤ 60	≤ 65	≤ 70	71 +

Florida's current boating safety education law, which affects boat operators 21 and younger, provides the following exemptions to a person who is:

- Licensed by the U.S. Coast Guard to serve as master of a vessel;
- Operating a vessel only on a private lake or pond;
- Accompanied in the vessel by a person who is exempt or who holds an identification card, is at least 18 years old, and is attendant to the operation of the vessel and responsible for any violation that occurs during the operation;
- A non-resident who has in his/her possession proof that he/she has completed a boater education course or an equivalency course in another state that meets the requirements of Florida's law;
- Otherwise exempt by Commission rule.

The FWC recommendation adds an additional exemption for anyone operating a vessel within the first 30 days following the purchase of the vessel provided an appropriate bill of sale is onboard.

The recommendation makes no changes to the current penalty for not having the boater safety card and a photo ID, which is a non-criminal infraction with a civil fine of \$50. If the individual does not pay the fine or fails to appear in court, he or she shall be charged with a second degree misdemeanor (up to \$500 fine and/or up to 60 days in jail).

All fines for violations of this law are to be used for boating safety education purposes.

What part of the state does the proposal affect?

Statewide.

Is this a Commission Area of Emphasis?

No.

A. Effect of Proposed Changes

This proposal would eliminate the 21-and-under “cap” in Florida’s current boater education law (s. 327.395, F.S.) and establish a phase-in period (eleven years) which would culminate in boat operators of all ages being required to show a Florida Boater Education Identification Card as proof of successful completion of a boater education course while operating a vessel with 10 horsepower or more.

Based on recent research published in a draft titled, “*A Comparative Analysis of Recreational Boating Policies: Quick Phase-In Education vs. Other Educational Policies*,” Florida could expect a reduction in boating accidents and fatalities. The data suggests that Florida could first expect normal fluctuations in the fatal accident rate, followed by a declining rate that levels off to an approximately 25 percent lower fatal accident rate. If Florida experiences this level of fatal accident reduction, we could anticipate saving 20 lives annually (based on Florida’s most recent boating accident statistics).

B. Impact on All Pertinent Statutes/Rules/Constitution

S. 327.395, F.S. to be amended.
Rule 68D-36 (Boater Education Rule) may require minor modifications depending upon the outcome of this legislation.

III. Affected Agencies and Groups

- Anyone operating a boat with 10 horsepower or more (except those specifically exempted) would have to take an approved boating safety course and obtain a Florida Boating Safety Education Identification Card
- Boating education course providers such as US Coast Guard Auxiliary, US Power Squadrons, and many others would experience increased demand for courses
- Law enforcement agencies would be enforcing this requirement
- FWC would be responsible for administration as part of the state’s recreational boating safety program

IV. Fiscal Impact

A. On FWC

The annual number of Florida Boater Education Identification Cards issued is anticipated to rise dramatically with the passage of this legislation. It costs FWC approximately \$1.20 to purchase and process each ID card (including equipment, cards, supplies, and OPS salaries) at the current rate of 20,000 cards issued each year.

Florida currently has approximately 1,000,000 registered boats, the vast majority of which are owned by a person over 21 years of age. Previous surveys of boat owners indicate that the average recreational boat in Florida is operated by approximately 2.5 people, which leads one to conclude that there may be up to 2,500,000 individual boat operators for the registered boat fleet. It is estimated that up to 10-percent of vessel operators have already taken a qualifying boating safety course, which leaves an estimated 2,250,000 boat operators who would need to take a course or equivalency exam and obtain a Florida Boating Safety Education Identification Card should this legislation become law.

If phase-in were to occur over the proposed eleven-year period, an average of approximately 205,000 additional ID cards would be issued annually. After that point, the number of cards issued is anticipated to drop dramatically. This would result in an estimated additional expense to the FWC of \$246,000 per year for the eleven-year phase-in period for the processing and distribution of Boating Safety Education Identification Cards.

In addition to the processing and distribution of the identification cards, there would be additional costs associated with an anticipated large demand for the home study boating safety course books. As an estimate, if 75% of those taking an approved course each year choose to take the home study course, the FWC would incur an estimated additional cost of \$92,000 for the course books. The 75% figure is purely an estimate, and the actual number may vary greatly due to other course offering options via the Internet and classroom.

Total expenditures, therefore, are estimated to average approximately \$338,000 annually until 2018, when all boaters will be required to have taken the course.

There is a provision in the current law for the FWC to charge up to \$2 for each card, and it is anticipated that the FWC would take advantage of this provision to defer any additional costs related to this effort.

Chapter 327.73, FS, provides funding for recreational boating safety education through revenues derived from noncriminal boating violations. Current spending authority for these funds is approximately \$1.1 million. FWC may be able to shift citation revenue from other law enforcement programs to pay for anticipated expenses related to this proposal.

B. On Private Sector

The private sector would be affected as follows:

The boating public has several options for obtaining a qualifying course under the proposal. FWC currently offers a home-study course with no attached fee and plans to expand Internet course availability. There are several internet course providers, and associated fees range from free to \$15. Finally, there are a number of classroom course providers offering approved courses in Florida, and these instructor-led course options cost an average of approximately \$35 per attendee. With a number of free course options available, there will be no requirement for a person to accrue an expense, other than the required six to eight-hours to complete an approved course, in order to meet the requirements of the proposed legislation.

One additional anticipated benefit to the boating public is a reduction in boat insurance premiums. Many insurance companies offer a 10% discount on boat insurance for those who have taken a safe boating course, and most (if not all) of Florida's approved courses qualify.

Course providers would experience an increase in revenue from those boating safety courses which require a fee.

When renting to a person within the affected age group, boat rental businesses will need to ensure that renters meet the new education requirement. The FWC already has a program whereby vendors can enter into contract with the FWC to issue Florida's Boater Education Temporary Certificates. A certificate is issued when an applicant successfully passes a written exam, which allows them to meet the boating safety education requirement in Florida on a 12-month temporary basis. There are approximately 150 boat rental businesses around the state currently participating in this program. Certificates cost the contractor \$2 each, and the contractor may recover their costs by charging their customers up to \$3 for each exam.

C. On Other Governmental Agencies

Governmental agencies employing persons who operate boats with 10 horsepower or more would be required to have their employees take an approved course. There is an expense to the agency of approximately 8 hours of the employee's work time to complete an approved course. With course options available with no cost, there are no required costs to the agency for course materials.

While state law allows FWC to charge \$2 for each card issued, it is our intent to exempt employees of other government agencies who are requesting the card as a requirement of their employment.

D. Tax/Fee Issues

No fiscal impact anticipated. The \$2 fee associated with boating safety education identification cards is already authorized in law, s. 327.395(10), F.S. No additional fees are requested.

IV. Proposed Language

327.395 Boating safety identification cards.—

(1) This section applies:

(a) Until January 1, 2008, to all persons 21 years of age or younger;

(b) On and after January 1, 2008, to all persons 25 years of age or younger;

(c) On and after January 1, 2009, to all persons 30 years of age or younger;

(d) On and after January 1, 2010, to all persons 35 years of age or younger;

(e) On and after January 1, 2011, to all persons 40 years of age or younger;

(f) On and after January 1, 2012, to all persons 45 years of age or younger;

(g) On and after January 1, 2013, to all persons 50 years of age or younger;

(h) On and after January 1, 2014, to all persons 55 years of age or younger;

(i) On and after January 1, 2015, to all persons 60 years of age or younger;

(j) On and after January 1, 2016, to all persons 65 years of age or younger;

(k) On and after January 1, 2017, to all persons 70 years of age or younger;

(l) On and after January 1, 2018, to all persons regardless of age.

(2) A person below the age provided in (1) 21 years of age or younger may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has in his or her possession aboard the vessel

photographic identification and a boater safety identification card issued by the commission which shows that he or she has:

(a) Completed a commission-approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators;

(b) Passed a course equivalency examination approved by the commission; or

(c) Passed a temporary certificate examination developed or approved by the commission.

~~(3)(2)~~ Any person may obtain a boater safety identification card by complying with the requirements of this section.

~~(4)(3)~~ Any commission-approved boater education or boater safety course, course-equivalency examination developed or approved by the commission, or temporary certificate examination developed or approved by the commission must include a component regarding diving vessels, awareness of divers in the water, divers-down flags, and the requirements of s. 327.331.

~~(5)(4)~~ The commission may appoint liveries, marinas, or other persons as its agents to administer the course, course equivalency examination, or temporary certificate examination and issue identification cards under guidelines established by the commission. An agent must charge the \$2 examination fee, which must be forwarded to the commission with proof of passage of the examination and may charge and keep a \$1 service fee.

~~(6)(5)~~ An identification card issued to a person who has completed a boating education course or a course equivalency examination is valid for life. A card issued to a person who has passed a temporary certification examination is valid for 12 months from the date of issuance.

~~(7)(6)~~ A person is exempt from subsection ~~(2)~~ (4) if he or she:

(a) Is licensed by the United States Coast Guard to serve as master of a vessel.

(b) Operates a vessel only on a private lake or pond.

(c) 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.

(d) 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 of subsection (2) ~~(4)~~.

(e) Is operating a vessel within the 30 days first following the purchase of that vessel and has available for inspection aboard that vessel a bill of sale meeting the requirements of s. 328.46(1).

(f) Is exempted by rule of the commission.

~~(8)(7)~~ A person who operates a vessel in violation of subsection (2) ~~violates this section~~ is guilty of a noncriminal infraction, punishable as provided in s. 327.73.

~~(9)(8)~~ The commission shall design forms and adopt rules to administer this section. Such rules shall include provision for educational and other public and private entities to offer the course and administer examinations.

~~(10)(9)~~ The commission shall institute and coordinate a statewide program of boating safety instruction and certification to ensure that boating courses and examinations are available in each county of the state.

~~(11)(10)~~ The commission is authorized to establish and to collect a \$2 examination fee to cover administrative costs.

~~(12)(11)~~ The commission is authorized to adopt rules pursuant to chapter 120 to implement the provisions of this section.