

HOUSE BILL NO. 108

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES HUDSON, Halcro, Phillips, Kerttula

Introduced: 2/22/99

Referred: Transportation, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the use, operation, and regulation of boats; establishing a
2 uniform state waterway marking system; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 05.25.010 is repealed and reenacted to read:

5 **Sec. 05.25.010. Safety requirements.** (a) Except as otherwise provided by
6 law, a boat placed on water of the state must be equipped with fire extinguishers,
7 sound-producing devices, back-fire flame protectors, ventilation, and visual distress
8 signals of the same number, type, and specifications required by the United States
9 Coast Guard. This subsection applies regardless of whether the boat is placed or
10 operated on water of the state subject to the jurisdiction of the United States Coast
11 Guard.

12 (b) During the period of time extending from sunset to sunrise and during
13 periods of restricted visibility, a boat placed on water of the state must display lights
14 of the same number, type, and specifications as required by the United States Coast

1 Guard under 33 U.S.C. 1602 and 33 U.S.C. 2002.

2 (c) A boat on water of the state must carry one United States Coast Guard
3 approved Type I, Type II, or Type III personal flotation device in serviceable condition
4 for each person on board the boat. A Type V personal flotation device may be carried
5 in lieu of a personal flotation device required in this subsection if the Type V personal
6 flotation device is in serviceable condition and

7 (1) if the approval label on the Type V personal flotation device
8 indicates that the device is approved for the activity in which the boat is being used,
9 or that the device is approved as a substitute for a personal flotation device of the type
10 required on the boat;

11 (2) for a device that contains a reference to an owner's manual, if the
12 Type V personal flotation device is used in accordance with the requirements in the
13 owner's manual; and

14 (3) if the Type V personal flotation device is properly sized, worn, and
15 fastened properly.

16 (d) In addition to the requirements in (c) of this section, a boat that is 16 feet
17 or longer, other than a kayak or canoe, must carry, one Type IV personal flotation
18 device that can be thrown and that is approved by the United States Coast Guard.

19 (e) A person may not use a flashing or revolving red or blue emergency light
20 on a boat unless the boat is operated by a peace officer or emergency professional in
21 the performance of official duties.

22 (f) The operator of a boat on water of the state may not transport a person
23 under 13 years of age on the deck of a boat or in an open boat unless the person is
24 wearing a United States Coast Guard approved Type I, Type II, or Type III personal
25 flotation device.

26 (g) The department may require, by regulation, that a boat or class of boats
27 carry additional equipment that is necessary for the safety of persons and property.

28 * **Sec. 2.** AS 05.25.020 is amended to read:

29 **Sec. 05.25.020. Use of boat with water [WATER] skis and surfboards.** (a)

30 A person may not operate a **boat** [WATERCRAFT] on **water** [THE INLAND
31 WATERS] of **the** [THIS] state for towing a person on water skis, [OR] a surfboard,

1 or a similar **device** [DEVICES] unless

2 (1) the **boat** [WATERCRAFT] is equipped with a rearview mirror in
3 which the person being towed can be viewed; [,] or

4 (2) there is, in the **boat**, [WATERCRAFT] a person of 12 years of age
5 or older in addition to the operator [,] in a position to observe the progress of the
6 person being towed.

7 (b) A person may not operate a **boat** [WATERCRAFT] on [THE] water of the
8 state to tow a person under 13 years of age on water skis, a surfboard, or a similar
9 device unless the person being towed is wearing a United States Coast Guard approved
10 Type I, Type II, or Type III personal flotation device. [IN THIS SUBSECTION,
11 "PERSONAL FLOTATION DEVICE" DOES NOT INCLUDE A LIFE BELT OR
12 LIFE RING.]

13 * **Sec. 3.** AS 05.25.030 is repealed and reenacted to read:

14 **Sec. 05.25.030. Boat collisions, accidents, and casualties.** (a) The operator
15 of a boat involved in a collision, accident, or casualty shall

16 (1) render assistance as is practicable and necessary to save other
17 persons from danger or to minimize the danger to other persons to the extent that the
18 operator can do so without serious danger to the operator's boat, crew, and passengers;
19 and

20 (2) give the operator's name, address, and identification number of the
21 operator's boat in writing to each person injured in the collision, accident, or casualty
22 and to the owner of property damaged in the collision, accident, or casualty.

23 (b) For the purpose of gathering boating accident statistics, the operator of a
24 boat involved in a collision, accident, or casualty that results in death or injury to a
25 person, or damage to property in excess of \$500 for each incident, shall file a report
26 with the department on or before the 20th day after the incident. The department shall
27 prepare a form for the report and make the form available to other agencies and to the
28 public.

29 (c) In response to a request from an authorized official or agency of the United
30 States, a law enforcement agency, or in compliance with United States Coast Guard
31 regulations, the department shall provide statistical information compiled or otherwise

1 available to the department from the reports required under (b) of this section.

2 * **Sec. 4.** AS 05.25.040 is amended to read:

3 **Sec. 05.25.040. Owner's civil liability.** The owner of a **boat**
 4 [WATERCRAFT] is liable for injury or damage caused by the negligent operation of
 5 the owner's **boat** [WATERCRAFT] whether the negligence consists of a violation of
 6 a state statute [,] or **the failure** [NEGLECTING] to **exercise** [OBSERVE] ordinary
 7 care in the operation of the **boat** [WATERCRAFT] as the rules of the common law
 8 require. The owner is not liable, however, unless the **boat** [WATERCRAFT] is used
 9 with the owner's express or implied consent. It is presumed that the **boat**
 10 [WATERCRAFT] is being operated with the knowledge and consent of the owner [,]
 11 if, at the time of the injury or damage, it is under the control of the owner's spouse,
 12 father, mother, brother, sister, son, daughter, or other member of the owner's immediate
 13 family. This chapter does not relieve any other person from a liability that the person
 14 would otherwise incur [,] and does not authorize or permit recovery in excess of injury
 15 or damage actually incurred.

16 * **Sec. 5.** AS 05.25.050 is amended to read:

17 **Sec. 05.25.050. Declaration of policy.** It is the policy of **the** [THIS] state to
 18 promote safety for persons and property in and connected with the use, operation, and
 19 equipment of **boats on water of the state** [VESSELS IN RECREATIONAL
 20 PURSUITS IN INLAND WATERS] and to promote uniformity of laws relating **to**
 21 **boat safety** [THERE TO].

22 * **Sec. 6.** AS 05.25 is amended by adding new sections to read:

23 **Sec. 05.25.052. Uniform state waterway marking system.** The department
 24 shall develop and adopt regulations establishing a uniform state waterway marking
 25 system for the placement of regulatory markers. The regulations must be compatible
 26 with the system of aids to navigation prescribed by the United States Coast Guard.

27 **Sec. 05.25.053. Boating safety program.** (a) The department shall administer
 28 a statewide boating safety program. The program must, to the extent consistent with
 29 state law,

30 (1) secure the full benefits available to the state under 46 U.S.C. 13101
 31 - 13110 (Federal Boat Safety Act of 1971); and

1 (2) take additional actions necessary to gain initial and ongoing federal
2 acceptance of the boating safety program and to qualify and apply for federal money
3 under 46 U.S.C. 13102.

4 (b) The department shall cooperate with local, state, and federal agencies,
5 private and public organizations, and individuals to provide for

6 (1) education on boating safety;

7 (2) a boat registration and numbering system through the Department
8 of Administration;

9 (3) a boating collisions, accidents, and casualties reporting system;

10 (4) boating access;

11 (5) boating safety patrol and law enforcement activity;

12 (6) a uniform state waterway marking system; and

13 (7) a boating safety advisory council as described in AS 05.25.057.

14 **Sec. 05.25.055. Registration and numbering of boats.** (a) An
15 undocumented boat placed on water of the state must be registered and numbered as
16 required by this chapter. The Department of Administration shall adopt by regulation
17 a boat registration and numbering system that is consistent with the national standard
18 for state numbering systems established by the United States Coast Guard.

19 (b) In adopting a boat registration system under (a) of this section, the
20 Department of Administration shall authorize agents, including boat dealers, to register
21 boats.

22 (c) A boat dealer shall require a purchaser of a new or used boat sold at retail
23 to complete a registration application and pay the registration fee before the boat
24 leaves the dealer's premises unless the boat is exempt from registration and numbering
25 under this chapter or regulations adopted under this chapter.

26 (d) A person may not operate a boat on water of the state unless a valid
27 certificate of number has been awarded by the Department of Administration to the
28 boat and the identification number and any required validation decals are properly
29 displayed on the boat.

30 (e) The Department of Administration shall authorize agents to accept an
31 application and registration fee for registration, to issue a registration, and to forward

1 the application and registration fee to the Department of Administration.

2 (f) Unless otherwise provided by this chapter, or unless the owner has been
3 awarded a current, valid Alaska certificate of number from the United States Coast
4 Guard, the owner of a boat for which a current certificate of number has been awarded
5 under federal law or a federally approved numbering system of another state shall
6 apply for a certificate of number in this state as required by this chapter if the boat is
7 operated on water of the state for more than 90 consecutive days.

8 (g) A certificate of number issued under this chapter is valid for three years
9 unless terminated or discontinued earlier as required by this chapter and regulations
10 adopted under this chapter. The certificate expires on the last day of the month at the
11 end of the three-year period. The expiration date shall be indicated on the certificate.

12 (h) All records of ownership of boats that are kept by the Department of
13 Administration under this section are public records. The Department of
14 Administration shall provide records of ownership to the Department of Natural
15 Resources for the purposes of meeting the federal requirements for state programs and
16 implementing this chapter.

17 (i) The following boats are exempt from the numbering and registration
18 provisions of this section:

19 (1) a boat that is operated in this state for a period not exceeding 90
20 consecutive days and that has a current, valid certificate of number issued by another
21 state having a federally approved numbering system;

22 (2) a foreign boat operated in water of the state for a period not
23 exceeding 90 consecutive days;

24 (3) a boat owned by the United States or an entity or political
25 subdivision of the United States, or a boat owned by a state or an entity or political
26 subdivision of a state;

27 (4) a boat that is

28 (A) never equipped with mechanical propulsion; and

29 (B) exclusively paddled, poled, rowed, or powered by wind;

30 (5) a boat with a valid document to operate the boat that is issued by
31 the United States or a foreign government.

1 **Sec. 05.25.057. Alaska Boating Safety Advisory Council established.** (a)

2 The Alaska Boating Safety Advisory Council is established in the department.

3 (b) The council consists of at least seven but not more than 11 representatives
4 from the boating community appointed by the commissioner. Council members serve
5 for staggered three-year terms and at the pleasure of the commissioner. A majority of
6 the members constitutes a quorum for the conduct of business.

7 (c) Members of the council receive no compensation for services on the
8 council, but are entitled to per diem and travel expenses authorized for boards under
9 AS 39.20.180.

10 (d) The council shall advise the department and the governor on matters
11 pertaining to boating safety. The department shall consult with the council on boating
12 safety issues.

13 * **Sec. 7.** AS 05.25.060 is repealed and reenacted to read:

14 **Sec. 05.25.060. Prohibited operation.** A person may not operate a boat on
15 water of the state

16 (1) for a recreational purpose or another purpose, or tow water skis, a
17 surfboard, or a similar device, in a reckless or negligent manner so as to endanger the
18 life or property of another person;

19 (2) that is not equipped as required under this chapter and regulations
20 adopted under this chapter; or

21 (3) in a manner that is inconsistent with a regulatory marker authorized
22 under regulations adopted by the department under this chapter.

23 * **Sec. 8.** AS 05.25.070 is amended to read:

24 **Sec. 05.25.070. Exemptions.** Boats [WATERCRAFT] and persons operating
25 boats [WATERCRAFT] are exempt from this chapter [, EXCEPT AS 05.25.060(b),]
26 when participating in the area set aside for a public regatta, race, marine parade,
27 tournament, or exhibition on inland water; for purposes of this section, "inland
28 water" means water of the state that is not offshore water [WATERS].

29 * **Sec. 9.** AS 05.25.080 is repealed and reenacted to read:

30 **Sec. 05.25.080. Enforcement.** A peace officer may enforce this chapter and
31 regulations adopted under this chapter and in the exercise of enforcement may stop and

1 board a boat subject to this chapter. A peace officer may issue a citation as provided
2 in AS 12.25.180 to a person who violates a provision of this chapter.

3 * **Sec. 10.** AS 05.25.090 is repealed and reenacted to read:

4 **Sec. 05.25.090. Penalties.** (a) Except as provided in (b) of this section, a
5 person who violates a provision of this chapter or regulations adopted under this
6 chapter is guilty of a class A misdemeanor.

7 (b) A person who violates AS 05.25.010, 05.25.020, 05.25.060(2) or (3), or a
8 regulation adopted under this chapter relating to AS 05.25.010 or 05.25.020 is guilty
9 of a violation as defined in AS 11.81.900 and may be fined up to \$500. The supreme
10 court shall establish by order or rule a schedule of bail amounts for violations under
11 this subsection that allow the disposition of a citation without a court appearance.

12 * **Sec. 11.** AS 05.25 is amended by adding a new section to read:

13 **Sec. 05.25.095. Regulations.** (a) Except as provided in (b) of this section,
14 the department may adopt regulations to implement this chapter, including regulations
15 regarding

16 (1) boat and associated safety equipment requirements, including
17 additional equipment as described in AS 05.25.010;

18 (2) uniform waterway markers;

19 (3) boat operation and safety requirements; and

20 (4) requirements for certification of programs on boating safety
21 education.

22 (b) In consultation with the department, the Department of Administration may
23 adopt regulations to implement this chapter with respect to the numbering, marking,
24 and titling of undocumented boats.

25 (c) Regulations adopted under this chapter may not be less stringent than
26 applicable minimum requirements of regulations governing recreational boat safety of
27 the United States Coast Guard.

28 * **Sec. 12.** AS 05.25 is amended by adding a new section to read:

29 **Sec. 05.25.096. Fees.** (a) The Department of Administration shall assess the
30 following fees:

31 (1) boat registration, registration renewal, and transfer of registration,

1 \$24 for a three-year period;

2 (2) replacement of lost registration, \$5;

3 (3) replacement of lost registration validation decals, \$5.

4 (b) The Department of Administration shall separately account for fees
5 collected under (a) of this section for boat registration that are deposited in the general
6 fund. The annual estimated balance in that account may be used by the legislature to
7 make appropriations to the department and the Department of Administration to carry
8 out the purposes of this chapter.

9 * **Sec. 13.** AS 05.25.100 is repealed and reenacted to read:

10 **Sec. 05.25.100. Definitions.** In this chapter, unless the context requires
11 otherwise,

12 (1) "aids to navigation" means buoys, beacons, or other fixed objects
13 in the water that are used to mark obstructions to navigation or to direct navigation
14 through safe channels;

15 (2) "boat" means watercraft used or capable of being used as a means
16 of transportation on water, except for

17 (A) a ship's lifeboat;

18 (B) a seaplane;

19 (C) an inspected passenger vessel; and

20 (D) a single air mattress, single inner tube, or other water toy;

21 (3) "boat dealer" means a person engaged wholly or in part in the
22 business of selling or offering for sale, buying or taking in trade for the purpose of
23 resale, or exchanging, displaying, demonstrating, or offering for sale three or more
24 boats within 12 consecutive months and who receives or expects to receive money,
25 profit, or any other thing of value;

26 (4) "certificate of number" means the document bearing the
27 identification number issued to a boat by the Department of Administration under this
28 chapter, by a federal agency, or by the state of principal use under a federally
29 approved numbering system;

30 (5) "commissioner" means the commissioner of natural resources;

31 (6) "department" means the Department of Natural Resources;

1 (7) "operate" means to navigate or to be in actual physical control of
2 a boat used or capable of being used as a means of transportation on water of the state;

3 (8) "owner" means a person who has a property interest other than a
4 security interest in a boat and the right of use or possession of the boat; "owner" does
5 not include a lessee unless the lease is intended as security;

6 (9) "ownership" means a property interest other than a security interest;

7 (10) "passenger" means a person on board a boat who is not the master,
8 operator, crew member, or other person engaged in a capacity in the business of the
9 boat;

10 (11) "regulatory marker" means an anchored or fixed marker in or on
11 the water, or sign on the shore or on a bridge over the water, other than aids to
12 navigation; "regulatory marker" includes swimming markers, bathing markers, speed
13 zone markers, identification markers, danger zone markers, boat keep out areas, special
14 anchorage areas, and mooring buoys;

15 (12) "undocumented boat" means a boat that does not possess a valid
16 certificate of documentation issued by the United States Coast Guard under 46 U.S.C.
17 12101 - 12123;

18 (13) "validation decal" means a decal that has the state of registration
19 and registration expiration year clearly marked;

20 (14) "water of the state" has the meaning given in the term "navigable
21 water" in AS 38.05.965; "water of the state" also includes the marginal sea adjacent
22 to the state and the high seas within the territorial limits of the state, irrespective of
23 the ownership of the land underlying those waters.

24 * **Sec. 14.** AS 09.25.120(a) is amended by adding a new paragraph to read:

25 (9) reports submitted under AS 05.25.030 concerning certain collisions,
26 accidents, or other casualties involving boats.

27 * **Sec. 15.** AS 12.25.190(c) is amended to read:

28 (c) The person cited for the crime shall give a written promise to appear in
29 court by signing at least one copy of the written citation prepared by the peace officer,
30 and the officer shall deliver a copy of the citation to the person. The written promise
31 requirement of this subsection does not apply to **boating citations for which a bail**

1 schedule has been established under AS 05.25.090(b), motor vehicle and traffic
2 citations for which a bail or fine schedule has been established under AS 28.05.151,
3 fish and game citations for which a bail schedule has been established under
4 AS 16.05.165, citations issued under AS 04.21.065, citations issued under
5 AS 18.35.341, citations issued in state park and recreational facilities under
6 AS 41.21.960, or littering citations issued under AS 46.06.080.

7 * **Sec. 16.** TRANSITION: REGULATIONS. The Department of Natural Resources and
8 Department of Administration may immediately proceed to adopt regulations to implement
9 their respective provisions of this Act. The regulations take effect under AS 44.62
10 (Administrative Procedure Act), but not before the effective date of secs. 1 - 15 of this Act.

11 * **Sec. 17.** Section 16 of this Act takes effect immediately under AS 01.10.070(c).