

**CS FOR HOUSE BILL NO. 108(TRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered: 3/31/99

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES HUDSON, Halcro, Phillips, Kerttula

**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.** INTENT. It is the intent of the legislature that

5 (1) at least 75 percent of any federal funds generated as a result of this Act  
6 be used to fund a statewide boating safety and education program, and that the state program  
7 operate in conjunction with the United States Coast Guard Auxiliary boating safety program  
8 and other marine education organizations; and

9 (2) except for a sound producing device, the boating equipment safety  
10 requirements imposed under AS 05.25.010(a), enacted in sec. 2 of this Act, not apply to boats  
11 such as kayaks, canoes, or other boats that are without engines and are paddled, poled or  
12 rowed.

13 \* **Sec. 2.** AS 05.25.010 is repealed and reenacted to read:

14 **Sec. 05.25.010. Safety requirements.** (a) Except for a boat without an

1 engine, a boat placed on water of the state must be equipped with a fire extinguisher,  
2 a back-fire flame protector, ventilation, and visual distress signals of the same number,  
3 type, and specifications required by the United States Coast Guard. A boat placed on  
4 the water of the state, including a boat without an engine, must be equipped with a  
5 sound-producing device. This subsection applies regardless of whether the boat is  
6 placed or operated on water of the state subject to the jurisdiction of the United States  
7 Coast Guard.

8 (b) During the period of time extending from sunset to sunrise and during  
9 periods of restricted visibility, a boat placed on water of the state must display lights  
10 of the same number, type, and specifications as required by the United States Coast  
11 Guard under 33 U.S.C. 1602 and 33 U.S.C. 2002.

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

17 (1) if the approval label on the Type V personal flotation device  
18 indicates that the device is approved for the activity in which the boat is being used,  
19 or that the device is approved as a substitute for a personal flotation device of the type  
20 required on the boat; and

21 (2) for a device that contains a reference to an owner's manual, if the  
22 Type V personal flotation device is used in accordance with the requirements in the  
23 owner's manual.

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

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

30 (f) The operator of a boat on water of the state may not transport a person  
31 under 13 years of age on the deck of a boat or in an open boat unless the person is

1 wearing a United States Coast Guard approved Type I, Type II, or Type III personal  
2 flotation device.

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

5 \* **Sec. 3.** AS 05.25.020 is amended to read:

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

7 A person may not operate a **boat** [WATERCRAFT] on **water** [THE INLAND  
8 WATERS] of **the** [THIS] state for towing a person on water skis, [OR] a surfboard,  
9 or **a** similar **device** [DEVICES] unless

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

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

15 (b) A person may not operate a **boat** [WATERCRAFT] on [THE] water of the  
16 state to tow a person under 13 years of age on water skis, a surfboard, or **a** similar  
17 device unless the person being towed is wearing a United States Coast Guard approved

18 **(1) Type I, Type II, or Type III personal flotation device; or**

19 **(2) Type V personal flotation device if the Type V personal**  
20 **flotation device is in serviceable condition and**

21 **(A) if the approval label on the Type V personal flotation**  
22 **device indicates that the device is approved for the activity;**

23 **(B) for a device that contains a reference to an owner's**  
24 **manual, if the Type V personal flotation device is used in accordance with**  
25 **the requirements in the owner's manual** [. IN THIS SUBSECTION,  
26 "PERSONAL FLOTATION DEVICE" DOES NOT INCLUDE A LIFE BELT  
27 OR LIFE RING].

28 \* **Sec. 4.** AS 05.25.030 is repealed and reenacted to read:

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

31 (1) render assistance as is practicable and necessary to save other

1 persons from danger or to minimize the danger to other persons to the extent that the  
 2 operator can do so without serious danger to the operator's boat, crew, and passengers;  
 3 and

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

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

13 (c) In response to a request from an authorized official or agency of the United  
 14 States, a law enforcement agency, or in compliance with United States Coast Guard  
 15 regulations, the department shall provide statistical information compiled or otherwise  
 16 available to the department from the reports required under (b) of this section.

17 \* **Sec. 5.** AS 05.25.040 is amended to read:

18 **Sec. 05.25.040. Owner's civil liability.** The owner of a **boat**  
 19 [WATERCRAFT] is liable for injury or damage caused by the negligent operation of  
 20 the owner's **boat** [WATERCRAFT] whether the negligence consists of a violation of  
 21 a state statute [,] or **the failure** [NEGLECTING] to **exercise** [OBSERVE] ordinary  
 22 care in the operation of the **boat** [WATERCRAFT] as the rules of the common law  
 23 require. The owner is not liable, however, unless the **boat** [WATERCRAFT] is used  
 24 with the owner's express or implied consent. It is presumed that the **boat**  
 25 [WATERCRAFT] is being operated with the knowledge and consent of the owner [,]  
 26 if, at the time of the injury or damage, it is under the control of the owner's spouse,  
 27 father, mother, brother, sister, son, daughter, or other member of the owner's immediate  
 28 family. This chapter does not relieve any other person from a liability that the person  
 29 would otherwise incur [,] and does not authorize or permit recovery in excess of injury  
 30 or damage actually incurred.

31 \* **Sec. 6.** AS 05.25.050 is amended to read:

1           **Sec. 05.25.050. Declaration of policy.** It is the policy of the [THIS] state to  
 2 promote safety for persons and property in and connected with the use, operation, and  
 3 equipment of boats on water of the state [VESSELS IN RECREATIONAL  
 4 PURSUITS IN INLAND WATERS] and to promote uniformity of laws relating to  
 5 boat safety [THERETO].

6 \* **Sec. 7.** AS 05.25 is amended by adding new sections to read:

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

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

14                           (1) secure the full benefits available to the state under 46 U.S.C. 13101  
 15 - 13110 (Federal Boat Safety Act of 1971); and

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

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

21                           (1) education on boating safety;

22                           (2) a boat registration and numbering system through the Department  
 23 of Administration;

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

25                           (4) boating access;

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

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

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

29           **Sec. 05.25.055. Registration and numbering of boats.** (a) An  
 30 undocumented boat placed on water of the state must be registered and numbered as  
 31 required by this chapter. The Department of Administration shall adopt by regulation

1 a boat registration and numbering system that is consistent with the national standard  
2 for state numbering systems established by the United States Coast Guard.

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

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

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

14 (e) The Department of Administration shall authorize agents to accept an  
15 application and registration fee for registration, to issue a registration, and to forward  
16 the application and registration fee to the Department of Administration.

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

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

27 (h) All records of ownership of boats that are kept by the Department of  
28 Administration under this section are public records. The Department of  
29 Administration shall provide records of ownership to the Department of Natural  
30 Resources for the purposes of meeting the federal requirements for state programs and  
31 implementing this chapter.

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

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

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

8 (3) a boat owned by the United States or an entity or political  
9 subdivision of the United States, or a boat owned by a state or an entity or political  
10 subdivision of a state;

11 (4) a boat that is not equipped with mechanical propulsion, that is  
12 exclusively paddled, poled, rowed, or powered by wind, and that is

13 (A) used exclusively for commercial purposes; or

14 (B) under 10 feet in length;

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

17 **Sec. 05.25.057. Alaska Boating Safety Council established.** (a) The Alaska  
18 Boating Safety Council is established in the department.

19 (b) The council consists of seven members appointed by the governor. The  
20 governor shall appoint each member on the basis of interest in public affairs,  
21 knowledge of boating issues as they relate to both safety and water of the state, and  
22 good judgment and ability concerning boating safety. At least four members of the  
23 council shall represent powerboat interests. The appointed members shall be residents  
24 of the state and shall be appointed without regard to political affiliation or geographical  
25 location of residence. The commissioner is not a member of the council, but shall be  
26 ex officio secretary.

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

30 (d) In this section, "council" means the Alaska Boating Safety Council.

31 \* **Sec. 8.** AS 05.25.060 is repealed and reenacted to read:

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

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

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

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

10 \* **Sec. 9.** AS 05.25.070 is amended to read:

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

16 \* **Sec. 10.** AS 05.25.080 is repealed and reenacted to read:

17                   **Sec. 05.25.080. Enforcement.** A peace officer may enforce this chapter and  
18 regulations adopted under this chapter and in the exercise of enforcement may stop and  
19 board a boat subject to this chapter. A peace officer may issue a citation as provided  
20 in AS 12.25.180 to a person who violates a provision of this chapter.

21 \* **Sec. 11.** AS 05.25.090 is repealed and reenacted to read:

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

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

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

31                   **Sec. 05.25.095. Regulations.** (a) Except as provided in (c) - (e) of this

1 section, the department may adopt regulations to implement this chapter, including  
2 regulations regarding

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

5 (2) uniform waterway markers;

6 (3) boat operation and safety requirements; and

7 (4) requirements for certification of programs on boating safety  
8 education.

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

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

15 (d) The department may not adopt a regulation under this section regarding  
16 boating safety if, before or during the period for public comment on the proposed  
17 regulation provided by AS 44.62.190, the Alaska Boating Safety Council provides the  
18 department with a written objection regarding the regulation, unless the department  
19 modifies the proposed regulation to satisfy the objection. The prohibition of this  
20 subsection does not apply if modification of the proposed regulation to satisfy the  
21 council's objection would result in

22 (1) failure to meet a federal stringency requirement described under (c)  
23 of this section; or

24 (2) a regulation that is not consistent with another provision of law.

25 (e) Nothing in this section authorizes the department to prohibit a use of or  
26 access to the water of the state by a person or user group.

27 \* **Sec. 13.** AS 05.25 is amended by adding a new section to read:

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

30 (1) boat registration, registration renewal, and transfer of registration,  
31 \$24 for a three-year period;

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

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

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

8 \* **Sec. 14.** AS 05.25.100 is repealed and reenacted to read:

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

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

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

16 (A) a ship's lifeboat;

17 (B) a seaplane;

18 (C) an inspected passenger vessel; and

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

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

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

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

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

31 (7) "operate" means to navigate or to be in actual physical control of

1 a boat used or capable of being used as a means of transportation on water of the state;

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

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

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

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

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

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

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

23 \* **Sec. 15.** AS 09.25.120(a) is amended by adding a new paragraph to read:

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

26 \* **Sec. 16.** AS 12.25.190(c) is amended to read:

27 (c) The person cited for the crime shall give a written promise to appear in  
28 court by signing at least one copy of the written citation prepared by the peace officer,  
29 and the officer shall deliver a copy of the citation to the person. The written promise  
30 requirement of this subsection does not apply to **boating citations for which a bail**  
31 **schedule has been established under AS 05.25.090(b)**, motor vehicle and traffic

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

6 \* **Sec. 17.** TRANSITION: REGULATIONS. The Department of Natural Resources and  
7 Department of Administration may immediately proceed to adopt regulations to implement  
8 their respective provisions of this Act. The regulations take effect under AS 44.62  
9 (Administrative Procedure Act), but not before the effective date of secs. 1 - 16 of this Act.

10 \* **Sec. 18.** Section 17 of this Act takes effect immediately under AS 01.10.070(c).