

SENATE BILL NO. 86

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/23/99

Referred: Transportation, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to boat safety, equipment, reporting, liability, registration,
2 numbering, fees, penalties, and enforcement; establishing a uniform state
3 waterway marking system; and providing an effective date."

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

5 * **Section 1.** AS 05.25.010 is repealed and reenacted to read:

6 **Sec. 05.25.010. Safety requirements.** (a) Except as otherwise provided by
7 law, a boat placed on waters of the state must be equipped with fire extinguishers,
8 sound producing devices, back-fire flame protectors, ventilation, and visual distress
9 signals of the same number, type, and specifications as provided by United States
10 Coast Guard safety equipment requirements set out in 33 C.F.R. Part 175 and
11 46 C.F.R. Part 25, as amended from time to time.

12 (b) During the period of time extending from sunset to sunrise and periods of
13 restricted visibility, a boat placed on the waters of the state must display lights of the
14 number, type, and specifications required under 33 U.S.C. 1602 or 33 U.S.C. 2020 -

1 2030, or by related United States Coast Guard regulations adopted under
2 33 U.S.C. 1607 or 2071, as amended from time to time.

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

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

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

15 (3) the Type V personal flotation device is worn.

16 (d) A boat that is 16 feet and longer, other than a kayak or canoe, must carry,
17 in addition to the requirements in (c) of this section, one Type IV personal flotation
18 device that can be thrown and 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 the waters of the state may not transport a
23 person under 13 years of age on the deck of a boat or in an open boat unless the
24 person is wearing a United States Coast Guard approved Type I, Type II, or Type III
25 personal 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 (h) The requirements of (a) and (b) of this section apply to a boat placed on
29 waters of the state regardless of whether those waters are also subject to the
30 jurisdiction of the United States Coast Guard.

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

1 **Sec. 05.25.020. Water skis and surfboards.** (a) A person may not operate
 2 a **boat** [WATERCRAFT] on the [INLAND] waters of this state for towing a person
 3 on water skis, or a surfboard, or similar **device** [DEVICES] unless (1) the **boat**
 4 [WATERCRAFT] is equipped with a rearview mirror in which the person being towed
 5 can be viewed, or (2) there is in the **boat** [WATERCRAFT] a person of 12 years of
 6 age or older in addition to the operator, in a position to observe the progress of the
 7 person being towed.

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

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

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

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

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

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

30 (c) In response to a request from an authorized official or agency of the United
 31 States or a law enforcement agency, or in compliance with United States Coast Guard

1 regulations, the department shall provide statistical information compiled or otherwise
2 available to the department from the reports required under (b) of this section.

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

4 **Sec. 05.25.040. Owner's civil liability.** The owner of a boat
5 [WATERCRAFT] is liable for injury or damage caused by the negligent operation of
6 the owner's boat [WATERCRAFT] whether the negligence consists of a violation of
7 a state statute, or neglecting to observe ordinary care in the operation of the boat
8 [WATERCRAFT] as the rules of the common law require. The owner is not liable,
9 however, unless the boat [WATERCRAFT] is used with the owner's express or
10 implied consent. It is presumed that the boat [WATERCRAFT] is being operated with
11 the knowledge and consent of the owner, if at the time of the injury or damage, it is
12 under the control of the owner's spouse, father, mother, brother, sister, son, daughter,
13 or other member of the owner's immediate family. This chapter does not relieve any
14 other person from a liability that the person would otherwise incur, and does not
15 authorize or permit recovery in excess of injury 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 this state to promote
18 safety for persons and property in and connected with the use, operation, and
19 equipment of boats [VESSELS] in [RECREATIONAL] pursuits on [IN INLAND]
20 waters of this state and to promote uniformity of laws relating to boat safety
21 [THERETO].

22 * **Sec. 6** AS 05.025 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 shall be compatible
26 with 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 shall, to the extent consistent with
29 state law,

30 (1) secure the full benefits available to the state under
31 46 U.S.C. 13101-13110 (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) Each
15 undocumented boat placed on the waters of the state must be registered and numbered
16 in accordance with this chapter. The Department of Administration shall adopt, by
17 regulation, a boat registration and numbering system that is consistent with the national
18 standard for state numbering systems established by the United States Coast Guard that
19 is set out in 33 C.F.R. Part 174, as amended from time to time.

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

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

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

31 (e) The Department of Administration shall authorize agents to accept an

1 application and registration fee for registration, issue a registration, and forward the
2 application and registration fee to the Department of Administration.

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

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

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

19 (i) The following classes of boats are exempt from the numbering and
20 registration provisions of this section:

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

24 (2) a foreign boat operated in state water for a period not exceeding 90
25 consecutive days;

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

29 (4) boats that are

30 (A) never equipped with mechanical propulsion; and that are

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

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

3 **Sec. 05.25.057. Council established.** (a) The Alaska Boating Safety
4 Advisory Council is established in the department.

5 (b) The council consists of 7 - 11 representatives from the boating community
6 appointed by the commissioner. Council members serve for staggered three-year terms
7 and at the pleasure of the commissioner. A majority of the members appointed
8 constitutes a quorum to conduct business.

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

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

15 * **Sec. 7.** AS 05.25.060 is amended to read:

16 **Sec. 05.25.060. Prohibited boat operation.** (a) A person may not operate
17 a **boat** [WATERCRAFT] whether for recreational purposes or any other purpose or
18 manipulate water skis, a surfboard, or a similar device on the waters of the state in a
19 reckless or negligent manner so as to endanger the life or property of another person.

20 (b) A person may not operate a **boat** [WATERCRAFT] whether for
21 recreational purposes or any other purpose in violation of AS 28.35.030 on the waters
22 of the state while under the influence of any intoxicating liquor, narcotic drug,
23 barbiturate, or marijuana.

24 * **Sec. 8.** AS 05.25.060 is amended by adding new subsections to read:

25 (c) A person may not operate a boat on the waters of the state that is not
26 equipped as required under this chapter and regulations adopted under this chapter.

27 (d) A person may not operate a boat on waters of the state in a manner that
28 is inconsistent with a regulatory marker authorized under regulations adopted by the
29 department under this chapter.

30 * **Sec. 9.** AS 05.25.070 is amended to read:

31 **Sec. 05.25.070. Exemptions. Boats** [WATERCRAFT] and persons operating

1 **boats** [WATERCRAFT] are exempt from this chapter, except AS 05.25.060(b), when
 2 participating in the area set aside for a public regatta, race, marine parade, tournament,
 3 or exhibition on [INLAND] waters **of the state**.

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

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

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

10 **Sec. 05.25.090. Penalties.** (a) Except as provided in (b) of this section, a
 11 person who violates a provision of this chapter or regulations adopted under this
 12 chapter is guilty of a class A misdemeanor. A person who also violates AS 28.35.030
 13 is also subject to penalties under AS 28.35.030.

14 (b) A person who violates AS 05.25.010, 05.25.020, 05.25.060(c) or (d), or
 15 regulations adopted under this chapter relating to AS 05.25.010 or 05.25.020, is guilty
 16 of a violation, as defined in AS 11.81.900, and may be fined up to \$500. The supreme
 17 court of this state shall establish by order or rule a schedule of bail amounts for
 18 violations under this subsection that allow the disposition of a citation without a court
 19 appearance.

20 * **Sec 12.** AS 05.25 is amended by adding new sections to read:

21 **Sec. 05.25.095. Regulations.** (a) Except as provided in (b) of this section,
 22 the department may adopt regulations to interpret or implement its respective duties
 23 in this chapter, including regulations regarding

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

26 (2) uniform waterway markers;

27 (3) boat operation and safety requirements; and

28 (4) requirements for certification of programs on boating safety
 29 education.

30 (b) In consultation with the Department of Natural Resources, the Department
 31 of Administration may adopt regulations to interpret or implement this chapter with

1 respect to its duties regarding the numbering, marking, and titling of undocumented
2 boats.

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

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

8 (1) boat registration, registration renewal, and transfer of registration,
9 \$24 for a three-year period;

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

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

12 (b) The Department of Administration shall separately account for fees
13 collected under (a) of this section that are deposited in the general fund. The annual
14 estimated balance in that account may be used by the legislature to make
15 appropriations to the Department of Natural Resources and the Department of
16 Administration to carry out the purposes of this chapter.

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

18 **Sec. 05.25.100. Definitions.** In this chapter, unless the context requires
19 otherwise,

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

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

25 (A) a ship's lifeboat;

26 (B) seaplanes;

27 (C) inspected passenger vessels; and

28 (D) single air mattresses, single inner tubes, and other water
29 toys;

30 (3) "boat dealer" means a person engaged wholly or in part in the
31 business of selling or offering for sale, buying or taking in trade for the purpose of

1 resale, or exchanging, displaying, demonstrating or offering for sale three or more
2 boats within 12 consecutive months, and who receives or expects to receive money,
3 profit, or any other thing of value;

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

8 (5) "commissioner" means the commissioner of the department;

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

10 (7) "operate" means to navigate or to be in actual physical control of
11 a boat used or capable of being used as a means of transportation on waters of the
12 state;

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

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

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

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

25 (12) "undocumented boat" means a boat that does not possess a valid
26 marine document issued by the United States Coast Guard under
27 46 U.S.C. 12102 - 12123;

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

30 (14) "waters of the state" means all navigable water of the state as that
31 term is defined in AS 38.05.965; "waters of the state" includes the marginal seas

1 adjacent to the state and high seas within the territorial limits of the state, irrespective
2 of the ownership of the land underlying those waters;

3 (15) "wear" means wearing a properly sized United States Coast Guard
4 approved personal flotation device that is in good condition and properly fastened.

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

6 (9) reports submitted under AS 05.25.030 concerning certain collisions
7 or other casualties involving boats.

8 * **Sec. 15.** TRANSITION: REGULATIONS. The Department of Natural Resources and
9 Department of Administration may immediately proceed to adopt regulations to implement
10 their respective provisions of this Act. The regulations take effect under AS 44.62
11 (Administrative Procedure Act), but not before the effective date of secs. 1 - 14 of this Act.

12 * **Sec. 16.** Section 15 of this Act takes effect immediately under AS 01.10.070(c).