

1 IN THE HOUSE

BY ELIASON

2 HOUSE BILL NO. 758

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the registration and titling of
7 watercraft."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 05 is amended by adding new sections to read:

10 ARTICLE 4. WATERCRAFT REGISTRATION AND TITLING.

11 Sec. 05.25.110. ADMINISTRATION. The department shall observe,
12 administer, and enforce secs. 110 - 470 of this chapter.

13 Sec. 05.25.120. POWERS AND DUTIES OF DEPARTMENT. (a) The depart-
14 ment may adopt and enforce regulations necessary to carry out secs.
15 110 - 470 of this chapter.

16 (b) The department may take possession of a certificate of title
17 and registration card issued by it upon its expiration, revocation,
18 cancellation or suspension, or which is fictitious or unlawfully or
19 erroneously issued.

20 (c) The department shall prescribe and provide forms of applica-
21 tions, certificates of title, registration cards and all other forms
22 necessary to carry out secs. 110 - 470 of this chapter.

23 (d) The department shall examine and determine the genuineness,
24 regularity, and legality of every application for registration of a
25 watercraft, certificate of title, and any other application made to it.
26 It may make necessary investigations or require additional information.
27 It shall reject an application if not satisfied as to the genuineness,
28 regularity, or legality of the application, or the truth of any state-
29 ment contained in it.

1 Sec. 05.25.130. WATERCRAFT SUBJECT TO REGISTRATION. Every water-
2 craft 15 feet or more in length is subject to the registration provi-
3 sions of secs. 110 - 470 of this chapter except

4 (1) a watercraft which has a valid marine document issued by
5 a federal agency;

6 (2) foreign watercraft operated only temporarily in the
7 waters of the state;

8 (3) a watercraft owned and operated by the United States or a
9 state or a municipality unless it is a recreational type public water-
10 craft;

11 (4) a watercraft's lifeboat used solely for lifesaving pur-
12 poses;

13 (5) other classes of watercraft specifically exempted by the
14 department if it determines that the safety of persons and property will
15 not be materially promoted by the registration of that class of water-
16 craft.

17 Sec. 05.25.140. APPLICATION FOR REGISTRATION. (a) Every owner of
18 a watercraft subject to registration shall apply to the department for
19 the registration of the watercraft on the appropriate form furnished by
20 the department. The application shall be signed by the owner and con-
21 tain

22 (1) the name, residence, and business address of the owner;

23 (2) a description of the watercraft, including its length,
24 the make, model, type of body, the serial number, the engine or other
25 number of the watercraft, whether new or used, and, if a new watercraft,
26 the date of sale by the manufacturer or dealer to the person intending
27 to operate the watercraft, and any lien or encumbrance and its amount;

28 (3) if the watercraft is a specially constructed, recon-
29 structed, or foreign watercraft, a statement of that fact; and

1 (4) any other information the department reasonably requires
2 in order to enable it to determine whether or not the watercraft is
3 entitled to registration.

4 (b) An application for the registration of a new watercraft pur-
5 chased from a dealer shall be accompanied by a "Statement of Watercraft
6 Sale" on a form approved by the department. This statement shall in-
7 clude the following information: the name and address of the dealer;
8 the name and address of the purchaser; the make, body, length, style,
9 year, engine number, and model or series number of the watercraft. It
10 shall state whether the watercraft is new or a demonstrator and give an
11 itemized breakdown of the price charged the purchaser to clearly reflect
12 the separate charges for taxes, transportation, accessories, transfer,
13 title fees, and all other charges; the total cash delivered price, a
14 clear and concise description of all credits against the purchased price
15 by payment or trade-in or otherwise. If the watercraft is sold on a
16 time contract, the statement shall include an itemized breakdown of all
17 finance, insurance, and other charges made by the dealer to arrive at
18 the true balance. The statement shall be subscribed and sworn to before
19 a notary public by an authorized representative of the dealer. The
20 dealer shall furnish the purchaser with a copy before the consummation
21 of the sale.

22 Sec. 05.25.150. WATERCRAFT REGISTERED ELSEWHERE. Upon registering
23 a watercraft registered in another state or country, the applicant shall
24 surrender to the department all certificates of registration or other
25 evidence of registration which is in his possession or control. How-
26 ever, if in the course of interstate operation of a watercraft regis-
27 tered in another state it is desirable to retain registration of the
28 watercraft in the other state, the applicant need not surrender the
29 evidence of foreign registration but shall submit it for inspection, and

1 the department, on a proper showing, shall register the watercraft.
2 However, the department may not issue a certificate of title for the
3 watercraft. If the registered or legal owner cannot surrender the out-
4 of-state title or, in the case of a nontitle state, the registration
5 certificate, because of an encumbrance or otherwise, the department
6 shall register the watercraft in the usual manner and shall mark the
7 State of Alaska registration certificate "No Alaska Title Issued".

8 Sec. 05.25.160. APPLICATION FOR REGISTRATION OF NEW WATERCRAFT TO
9 CONTAIN BILL OF SALE. When application for registration is made for a
10 new watercraft purchased from a dealer, the application shall be accom-
11 panied either by a receipted invoice, by a bill of sale, or if the sale
12 is conditional by a statement by the dealer showing the lien retained by
13 the dealer.

14 Sec. 05.25.170. GROUNDS FOR REFUSING REGISTRATION. The depart-
15 ment may refuse registration, or a transfer of registration, upon any of
16 the following grounds:

17 (1) that the application contains a false or fraudulent
18 statement, that the applicant has failed to furnish required information
19 or reasonable additional information requested by the department, or
20 that the applicant is not entitled to the issuance of a certificate of
21 registration of the watercraft;

22 (2) that the department has reasonable ground to believe that
23 the watercraft is a stolen or embezzled watercraft, or that the granting
24 of registration would constitute a fraud against the rightful owner or
25 other person having a lien on the watercraft; or

26 (3) that the registration of the watercraft stands suspended
27 or revoked for any reason provided by law.

28 Sec. 05.25.180. ISSUANCE OF REGISTRATION CARD UPON REGISTRATION.

29 (a) The fee for registering of a watercraft is \$5. When the department

1 registers a watercraft, it shall issue a registration card to the owner.
2 The registration card shall contain on its face the following: the
3 registration number assigned to the watercraft and date of issuance; the
4 owner's name and post office address; the make, model, length, and
5 serial number of the watercraft; the engine serial number; lien, if any;
6 certificate of ownership number; and other matters the department may
7 require. The registration card shall contain a space for the signature
8 of the registered owner, and the owner shall sign it in ink immediately
9 upon receipt.

10 (b) The registration card shall be carried in the watercraft to
11 which it refers at all times or shall be carried by the person operating
12 or in control of the watercraft who shall display it upon demand of a
13 peace officer or an authorized representative of the department. The
14 owner of a watercraft used or designed for use in the transportation of
15 persons for hire or transportation of property shall enclose the regis-
16 tration card for the watercraft in a metal or other durable container
17 with transparent covering to permit inspection of the contents of the
18 card, and shall have the card affixed in plain sight to the watercraft
19 or carry it in a tool bag or other convenient receptacle attached to the
20 watercraft.

21 Sec. 05.25.190. ISSUANCE OF DUPLICATE REGISTRATION CARD. If a
22 registration card is lost, mutilated, or destroyed, the owner of a
23 registered watercraft may obtain a duplicate from the department by
24 filing, on appropriate forms prescribed by the department, an applica-
25 tion showing the fact of loss, mutilation, or destruction, and paying a
26 fee of \$2.

27 Sec. 05.25.200. OBTAINING CERTIFICATE OF TITLE AS CONDITION TO
28 REGISTRATION. Except as to watercraft provided for in sec. 150 of this
29 chapter, the department may not register a boat unless the applicant for

1 registration at the same time applies for and obtains an official cer-
2 tificate of title to the watercraft, or presents satisfactory evidence
3 that a certificate of title was previously issued to him. The depart-
4 ment may not accept the application for the original registration or
5 certificate of title to a watercraft unless the watercraft is in the
6 state at the time of application. However, the department may accept
7 an application for registration and certificate of title for a water-
8 craft which is not in the state when the application is made by a dealer
9 holding a state business license or by a resident of the state when the
10 application is accompanied by a manufacturer's certificate of origin.

11 Sec. 05.25.210. APPLICATION FOR CERTIFICATE OF TITLE. Every owner
12 of a watercraft subject to registration under this chapter shall apply
13 to the department for a certificate of title for the watercraft on the
14 appropriate form or forms furnished by the department. The application
15 shall be signed by the owner and shall contain

16 (1) the name, residence, business address and post office
17 address of the owner;

18 (2) a description of the watercraft, including the make,
19 model, type of body, length, the serial number, the engine or other
20 number of the watercraft, whether new or used, and if a new watercraft,
21 the date of sale by the manufacturer or dealer to the person intending
22 to operate the watercraft;

23 (3) a statement of the applicant's title, and a statement of
24 liens or encumbrances upon the watercraft; and

25 (4) other information the department may reasonably require.

26 Sec. 05.25.220. CERTIFICATE OF TITLE FOR WATERCRAFT OF ANOTHER
27 STATE. The department may not issue a certificate of title for a water-
28 craft of another state unless the applicant surrenders the certificate
29 of title issued by the other state, if that state requires a certificate

1 of title. If the other state does not require a certificate of title,
2 the applicant shall surrender the registration card or other evidence of
3 foreign registration in his possession or control.

4 Sec. 05.25.230. TEMPORARY PERMITS. The department may grant a
5 temporary permit to operate a watercraft pending action on the applica-
6 tion for registration and issuance of certificate of title. The fee for
7 a temporary permit is \$2.

8 Sec. 05.25.240. GROUNDS FOR REFUSAL TO ISSUE CERTIFICATE OF TITLE.
9 The department may refuse to issue a certificate of title on any ground
10 justifying refusal of registration under sec. 170 of this chapter.

11 Sec. 05.25.250. ISSUANCE OF CERTIFICATE OF TITLE. Upon applica-
12 tion and payment of a fee of \$5, the department shall issue a certifi-
13 cate of title. The certificate shall contain the same information con-
14 tained in the registration card, and in addition, a statement of the
15 owner's title and of all liens and encumbrances upon the watercraft, and
16 whether possession is held by the owner under a lease, contract of con-
17 ditional sale, or other agreement. The certificate shall contain on the
18 reverse side a space for the signature of the owner, and the owner shall
19 sign his name in ink upon receipt of the certificate. On the reverse
20 side the certificate shall contain forms for assignment of title or
21 interest and warranty of title by the owner with space for notation of
22 liens and encumbrances on the watercraft at the time of transfer. The
23 department may require that other matters also be shown on the certifi-
24 cate.

25 Sec. 05.25.260. DELIVERY OF CERTIFICATE OF TITLE. The certificate
26 of title shall be delivered to the person holding the legal title. If a
27 lien or encumbrance appears on the certificate, it shall be delivered to
28 the person holding the first lien or encumbrance on the watercraft as
29 shown in the certificate.

1 Sec. 05.25.270. DUPLICATE CERTIFICATE OF TITLE. If a certificate
2 of title is lost, or becomes mutilated, or illegible, the owner or legal
3 representative or successor in interest of the owner of the watercraft
4 for which the certificate was issued, as shown by the records of the
5 department, shall immediately apply for and may obtain a duplicate. The
6 applicant shall furnish information satisfactory to the department, and
7 pay a fee of \$2. The duplicate certificate of title shall have printed
8 or stamped in ink upon its face the words "duplicate certificate" and,
9 if more than one duplicate certificate is issued, this fact shall appear
10 upon the face of the duplicate certificate.

11 Sec. 05.25.280. TRANSFER OF OWNERSHIP OR INTERESTS. The depart-
12 ment shall adopt regulations to accomplish transfer of ownership or
13 interests in watercraft, generally following the provisions of AS 28.-
14 10.350, 28.10.360, and 28.10.370 - 28.10.460 relating to the transfer of
15 ownership or interests in motor vehicles, where practicable and reason-
16 able in the determination of the department.

17 Sec. 05.25.290. FILING INSTRUMENTS EVIDENCING LIENS OR ENCUM-
18 BRANCES. No conditional sale contract, conditional lease, chattel mort-
19 gage, or other lien or encumbrance or title retention instrument on a
20 registered watercraft, other than a lien dependent on possession, is
21 valid as against the creditor of an owner acquiring a lien by levy or
22 attachment or a subsequent purchaser or encumbrancer without notice un-
23 til the requirements of secs. 300 - 350 of this chapter are complied
24 with.

25 Sec. 05.25.300. PROVISIONS FOR FILING. (a) A copy of the instru-
26 ment creating and evidencing the lien or encumbrance shall be filed with
27 the department. The instrument shall be executed in the manner required
28 by law, with a certificate of a notary or other person authorized by law
29 to administer oaths, stating that it is a true and correct copy of the

1 original.

2 (b) If a certificate of title is issued before the lien or encum-
3 brance attaches, the copy of the instrument creating and evidencing the
4 lien or encumbrance shall be accompanied by the certificate of title
5 issued for the watercraft.

6 (c) If the watercraft is of a type subject to registration but is
7 not registered and no certificate of title is issued for it, then the
8 certified copy of the instrument creating and evidencing the lien or en-
9 cumbrance shall be accompanied by an application by the owner in the
10 form for an original registration and issuance of an original certifi-
11 cate of title.

12 (d) A filing fee of \$2 shall accompany every lien document filed
13 with the department.

14 Sec. 05.25.310. NEW CERTIFICATE OF TITLE. Upon receipt of the
15 application and documents, the department shall file them, endorsing on
16 them the date of receipt at the central office of the department. If
17 the department is satisfied as to the genuineness and regularity of the
18 application, it shall issue a new certificate of title giving the name
19 of the owner and a statement of liens or encumbrances certified to the
20 department as existing against the watercraft. The certificate of title
21 shall be delivered by the department to the person holding the lien or
22 encumbrance.

23 Sec. 05.25.320. INDEX OF LIENS AND ENCUMBRANCES. The department
24 shall maintain an index of all lien, encumbrance or title retention in-
25 struments filed with it.

26 Sec. 05.25.330. FILING EFFECTIVE TO GIVE NOTICE. The filing and
27 the issuance of a new certificate of title is constructive notice of all
28 liens and encumbrances against the watercraft described in the cer-
29 tificate to creditors of the owner, or to subsequent purchasers and

1 encumbrances. However, an encumbrance or lien on a watercraft for work,
2 labor, material, transportation, storage, or similar activity, whether
3 or not dependent on possession for its validity, is subordinate only to
4 mortgages, conditional sales contracts, or similar encumbrances or liens
5 properly filed on or before the time that the watercraft is subject to,
6 or comes into possession of, the encumbrance or lien claimant.

7 Sec. 05.25.340. DATE OF CONSTRUCTIVE NOTICE. If the documents
8 referred to in secs. 290 - 350 of this chapter are received and filed in
9 the central office of the department within 10 days after the date the
10 documents are executed, the constructive notice dates from the time of
11 the execution of the documents. Otherwise constructive notice dates
12 from the time of receipt and filing of the documents by the department
13 as shown by its endorsement on them.

14 Sec. 05.25.350. METHOD OF GIVING NOTICE EXCLUSIVE. Filing as
15 provided in sec. 300 of this chapter is the exclusive method of giving
16 constructive notice of a lien or encumbrance on a registered watercraft,
17 except as to liens dependent upon possession.

18 Sec. 05.25.360. NONRESIDENT OWNERS OF WATERCRAFT. (a) A person
19 who brings into the state a watercraft subject to registration under
20 this chapter which is registered in another state and who uses the
21 watercraft for pleasure only is exempt from the registration provisions
22 of this chapter for 90 days after entry into the state. The exemption
23 does not apply if the person becomes gainfully employed in the state or
24 takes action which indicates his intention to acquire residence in the
25 state.

26 (b) A person who brings into the state a watercraft subject to
27 registration under this chapter which is registered in another state,
28 and who operates the watercraft in the state for compensation or profit
29 is subject to the registration and licensing provisions of this chapter.

1 However, the watercraft may be operated in the state in the transporta-
2 tion of persons or property exclusively in interstate commerce, if
3 registered and licensed under the laws of another state, but only to the
4 extent that in that state the same exemptions and privileges are granted
5 to watercraft registered and licensed under this chapter and owned by
6 residents of this state.

7 (c) The department may enter into reciprocal contracts and agree-
8 ments which it considers proper or expedient with the authorities of
9 other states, regulating the use of the watercraft owned in other states
10 and licensed under the laws of those states. The department may confer
11 and advise with the officers, officials, and legislative bodies of the
12 state and other states to promote reciprocal agreements under which the
13 registration of watercraft owned in the state are recognized by other
14 states.

15 Sec. 05.25.370. NOTICE OF CHANGE OF NAME OR ADDRESS. A person who
16 has a registration or other form issued under this chapter, or has
17 applied for registration or other form, and who changes his name or
18 moves from the address shown on the registration card, the certificate
19 of title or the department's records or forms, shall notify the depart-
20 ment in writing of the change in address or name within 30 days.

21 Sec. 05.25.380. EVIDENCE. In a civil or criminal proceeding when
22 the title or right to possession of a watercraft is involved, the record
23 of registrations and certificates of title as they appear in the files
24 and records of the department are prima facie evidence of ownership or
25 right to possession of the watercraft. Proof of ownership, possession,
26 or right to possession of a watercraft shall be made by a copy of the
27 record, certified by the department or by the original certificate of
28 registration or certificate of title issued by the department.

29 Sec. 05.25.390. ENFORCEMENT OF CHAPTER. Peace officers in the

1 state shall enforce secs. 110 - 470 of this chapter.

2 Sec. 05.25.400. LISTS OF REGISTERED WATERCRAFT. The department
3 shall maintain a current record of all watercraft and registrations.

4 Sec. 05.25.410. OPERATION OF UNREGISTERED WATERCRAFT. A person
5 who operates or moves, or an owner who knowingly permits to be operated
6 or moved, a watercraft required to be registered which has not been
7 registered or for which a certificate of title is not issued is guilty
8 of a misdemeanor and upon conviction is punishable by a fine of not more
9 than \$100.

10 Sec. 05.25.420. FRAUDULENT APPLICATIONS. A person who fraudu-
11 lently uses a false or fictitious name in an application for the regis-
12 tration of a watercraft or a certificate of title, or knowingly makes a
13 false statement or knowingly conceals a material fact or otherwise
14 commits a fraud in an application for registration, is guilty of a
15 felony and upon conviction is punishable by imprisonment for not less
16 than one year nor more than two years, or by a fine of not more than
17 \$2,000, or by both.

18 Sec. 05.25.430. FALSE EVIDENCE OF TITLE AND REGISTRATION. A per-
19 son who (1) alters with fraudulent intent a certificate of title, regis-
20 tration card or permit issued by the department, (2) forges or counter-
21 feits a certificate of title, registration card or permit, (3) alters or
22 falsifies with fraudulent intent or forges an assignment upon a certifi-
23 cate of title, or (4) holds or uses a certificate of title, registration
24 card or permit knowing it is altered, forged, or falsified, is guilty of
25 a felony and upon conviction is punishable by imprisonment for not less
26 than one year nor more than two years, or by a fine of not more than
27 \$2,000, or by both.

28 Sec. 05.25.440. REMOVAL OF WATERCRAFT FROM STATE. A person who
29 removes from the state a watercraft which is the subject of a security

1 interest created under the Alaska Uniform Commercial Code (AS 45.05.-
2 690 - 45.05.794) without the written consent of the secured party, and
3 with the intent to defraud the secured party, is guilty of a felony and
4 upon conviction is punishable by imprisonment for not more than two
5 years, or by a fine of not more than \$2,000, or by both.

6 Sec. 05.25.450. REPRESENTATION BY DEALERS AS TO WATERCRAFT OF
7 ANOTHER STATE. A dealer or person who represents a watercraft of
8 another state to be new, except new watercraft brought into the state in
9 the ordinary course of business by or through a manufacturer or dealer,
10 and sells or procures the sale of the foreign watercraft as a new boat,
11 is guilty of a felony and upon conviction is punishable by imprisonment
12 for not less than one year nor more than two years, or by a fine of not
13 more than \$2,000, or by both.

14 Sec. 05.25.460. OTHER VIOLATIONS. A person who violates any pro-
15 vision of secs. 110 - 470 of this chapter other than secs. 410 - 420 of
16 this chapter is guilty of a misdemeanor and upon conviction is punish-
17 able by a fine of not more than \$100.

18 Sec. 05.25.470. DEFINITIONS. In secs. 110 - 470 of this chapter,
19 unless the context requires otherwise,

20 (1) "dealer" means a franchised dealer, secondhand dealer,
21 used watercraft dealer or other person engaged in the business of buy-
22 ing, selling, or exchanging new or used watercraft of a type required to
23 be registered under this chapter who has an established place of busi-
24 ness and who is licensed to do business in the state; a dealer who has
25 an established place of business and is licensed and who sells a water-
26 craft is considered to be carrying on business in the state in the
27 ordinary course of business;

28 (2) "department" means Department of Public Safety;

29 (3) "length" means the length of a watercraft measured from

1 end to end over the deck excluding sheer;

2 (4) "manufacturer" means a person engaged in the business of
3 constructing or assembling watercraft of a type required to be regis-
4 tered under this chapter;

5 (5) "owner" means a person who holds the legal title to a
6 watercraft; but if a watercraft is the subject of an agreement for the
7 conditional sale or lease of it with the right of purchase upon perfor-
8 mance of the conditions stated in the agreement and with an immediate
9 right of possession vested in the conditional vendee or lessee, or if a
10 mortgagor of a watercraft is entitled to possession, the conditional
11 vendee or lessee or mortgagor is the owner for the purposes of this
12 chapter;

13 (6) "specially constructed watercraft" means a watercraft of
14 a type required to be registered under this chapter not originally con-
15 structed under a distinctive name, make, model, or type by a generally
16 recognized manufacturer of watercraft and not materially altered from
17 its original construction;

18 (7) "state" means any state, territory, possession, and fed-
19 eral district of the United States, and a province of the Dominion of
20 Canada;

21 (8) "watercraft" includes every device in, upon, or by which
22 a person or property is or may be transported or drawn upon the water.
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