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Referred: Resources and  
Judiciary

1 IN THE HOUSE

BY BUCHHOLDT

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 390

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to boating safety."

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

8 \* Section 1. AS 05 is amended by adding a new chapter to read:

9 CHAPTER 26. BOATING SAFETY.

10 ARTICLE 1. NUMBERING AND TITLING OF MOTORBOATS.

11 Sec. 05.26.010. NUMBERING AND TITLING OF MOTORBOATS. (a) The  
12 commissioner shall adopt regulations establishing a motorboat numbering  
13 and titling system. The numbering system shall be consistent with the  
14 numbering system established by the United States Coast Guard for iden-  
15 tifying and numbering motorboats in the United States under the Federal  
16 Boating Safety Act of 1971 (85 Stat. 213, 46 U.S.C. 1451).

17 (b) A person may not operate or give permission for the operation  
18 of a motorboat on state waters unless the motorboat is numbered in  
19 accordance with the regulations adopted by the commissioner under (a) of  
20 this section.

21 Sec. 05.26.020. CERTIFICATE OF TITLE REQUIRED. (a) An owner of a  
22 motorboat for which an identifying number is required by regulations  
23 adopted under AS 05.26.010, or the owner of an outboard motor which is  
24 25 horsepower or more, shall apply to the department for a certificate  
25 of title for the motorboat and a separate certificate of title for the  
26 outboard motor.

27 (b) A certificate of title is evidence of the ownership of a  
28 motorboat or outboard motor or the existence of a security interest in  
29 the motorboat or outboard motor. A certificate of title is valid for

1 the life of the motorboat or outboard motor while the certificate is  
2 owned or held by the legal holder of the certificate.

3 (c) A person may not operate or give permission for the operation  
4 of a motorboat or an outboard motor which is 25 horsepower or more on  
5 state waters unless the motorboat or outboard motor is covered by a  
6 valid certificate of title.

7 (d) The commissioner shall adopt regulations necessary to carry  
8 out the provisions of this section.

9 Sec. 05.26.030. CERTIFICATE OF NUMBER AND CERTIFICATE OF TITLE  
10 FEES. (a) The annual fees for the original, renewal, or transfer of a  
11 certificate of number are as follows:

- 12 (1) motorboats less than 16 feet in length.....\$6  
13 (2) motorboats 16 feet in length or more,  
14 but less than 26 feet.....\$10  
15 (3) motorboats 26 feet in length or more,  
16 but less than 40 feet.....\$14  
17 (4) motorboats 40 feet in length or more,  
18 but not more than 65 feet.....\$18  
19 (5) motorboats 65 feet in length or more.....\$26

20 (b) A certificate of number may be issued upon request, at no  
21 cost, to a recreational-type motorboat owned by the state or the United  
22 States.

23 (c) The fee for an original certificate of title is \$5.

24 (d) The fee for a transfer of the certificate of title is \$5.  
25 This fee is in addition to the fee required for the transfer of the  
26 certificate of number.

27 (e) If a certificate of number or title is lost or destroyed, the  
28 person whose name appears on the certificate as the owner may apply for  
29 a duplicate certificate by submitting a request to the department with a

1 fee of \$2.

2 Sec. 05.26.040. PUBLIC RECORDS. Records of the department made or  
3 kept as required by regulations adopted under AS 05.26.010 and 05.26.020  
4 are public records.

5 ARTICLE 2. COMPREHENSIVE SAFETY AND EDUCATION PROGRAM.

6 Sec. 05.26.050. SAFETY AND EDUCATION. (a) The department, in  
7 cooperation with the Department of Education, shall plan, develop, and  
8 execute public education and safety programs designed to reduce boating-  
9 related accidents.

10 (b) The department shall work in cooperation with organizations  
11 which are interested in the promotion of boating safety so that re-  
12 sources are marshalled and used to reduce accidental death and injury.

13 (c) Other state agencies shall cooperate with the department in  
14 carrying out its boating safety campaigns and educational programs to  
15 promote safety on state waters.

16 ARTICLE 3. ACCIDENTS AND CASUALTY REPORTING SYSTEM REQUIREMENTS.

17 Sec. 05.26.060. IMMEDIATE NOTIFICATION OF DEATH OR DISAPPEARANCE.

18 (a) If, as a result of an occurrence that involves a vessel or its  
19 equipment, a person dies or disappears from a vessel, the operator of  
20 the vessel shall, without delay, by the quickest means available, notify  
21 the department of

22 (1) the date, time, and exact location of the occurrence;

23 (2) the name of each person who died or disappeared;

24 (3) the number and name of the vessel; and

25 (4) the names and addresses of the owner and operator.

26 (b) If the operator of a vessel cannot give the notice required by  
27 (a) of this section, each person on board the vessel shall notify the  
28 department or determine that the notice has been given.

29 (c) This section applies to all vessels except those exempted by

1 AS 05.26.230(2).

2 Sec. 25.26.070. ACCIDENT REPORT. (a) The operator of a vessel  
3 shall submit an accident report to the department if, as a result of an  
4 occurrence that involves a vessel or its equipment,

5 (1) a person dies;

6 (2) a person is injured and requires medical treatment other  
7 than first aid;

8 (3) damage to the vessel and other property totals more than  
9 \$200 or there is complete loss of the vessel;

10 (4) a person disappears from the vessel under circumstances  
11 that indicate death or injury.

12 (b) The accident report required by (a) of this section must be  
13 made

14 (1) not later than 48 hours after the occurrence if a person  
15 dies within 24 hours of the occurrence;

16 (2) not later than 48 hours after the occurrence if a person  
17 is injured and requires medical treatment other than first aid, or dis-  
18 appears from a vessel; and

19 (3) within 10 days of the occurrence or death if an earlier  
20 accident report is not required by this subsection.

21 (c) If the department determines that an accident report is in-  
22 sufficient, it may require the operator to file a supplemental accident  
23 report and may also require a witness to the accident to submit an  
24 accident report.

25 (d) If the operator of a vessel is physically incapable of making  
26 a required accident report and there was another person in the vessel at  
27 the time of the accident capable of making a report, that person shall  
28 make the accident report.

29 (e) This section applies to all vessels except those exempted by

1 AS 05.26.230(2).

2 Sec. 05.26.080. FORM OF ACCIDENT REPORT. The department shall  
3 prepare and make available to the public accident forms. The form must  
4 require sufficiently detailed information to disclose the cause of the  
5 accident, conditions existing at the time of the accident, and the  
6 persons and vessels involved. Accident reports must be made on forms  
7 approved by the department.

8 Sec. 05.26.090. DUTY TO GIVE ASSISTANCE. (a) The operator of a  
9 vessel involved in a collision, accident, or other casualty, to the  
10 extent he can do so without serious danger to his own vessel or persons  
11 aboard, shall give all practical and necessary assistance to persons  
12 affected by or in danger from the collision, accident or casualty. He  
13 shall also give his name, address, and the identification of his vessel  
14 to an injured person and to the owner of damaged property. The duties  
15 imposed by this subsection are in addition to other duties imposed by  
16 law.

17 (b) This section applies to all vessels except those exempted by  
18 AS 05.26.230(2).

19 ARTICLE 4. BOATS AND ASSOCIATED EQUIPMENT STANDARDS AND USE.

20 Sec. 05.26.100. REQUIRED SAFETY EQUIPMENT. The commissioner shall  
21 adopt regulations classifying the types of safety equipment for a boat  
22 operating in state waters. The regulations shall be consistent with the  
23 regulations adopted by the United States Coast Guard and contained in  
24 Title 33, Code of Federal Regulations, Subchapter S and Title 46 Code of  
25 Federal Regulations Subchapter C, as amended.

26 Sec. 05.26.110. NAVIGATION LIGHTS REQUIRED. A boat operating on  
27 state waters must exhibit navigation lights in accordance with the  
28 International Regulations for Preventing Collisions at Sea, 1972.

29 Sec. 05.26.120. MANUFACTURER SAFETY STANDARDS. The commissioner

1 may adopt regulations for the manufacture and sale of boats and asso-  
2 ciated equipment that are consistent with regulations adopted by the  
3 United States Coast Guard and contained in Title 33, Code of Federal  
4 Regulations, Subchapter S, Part 181, as amended.

5 ARTICLE 5. VESSEL OPERATION.

6 Sec. 05.26.130. RECKLESS OR NEGLIGENT OPERATION. (a) A person  
7 may not operate a vessel, or manipulate water skis, aquaplane, surf-  
8 board, or similar devices on state waters, in a manner that endangers  
9 another person or the property of another person.

10 (b) This section applies to all vessels including those otherwise  
11 exempted from the requirements of this chapter under AS 05.26.230.

12 Sec. 05.26.140. OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.  
13 (a) A person may not operate a vessel, or manipulate water skis, aqua-  
14 plane, surfboard, or similar devices, while under the influence of  
15 intoxicating liquor, depressant, hallucinogenic or stimulant drugs or  
16 narcotic drugs as defined in AS 17.10.230(13) and 17.12.150(3).

17 (b) This section applies to all vessels including those otherwise  
18 exempted from the requirements of this chapter under AS 05.26.230.

19 Sec. 05.26.150. PROHIBITION AGAINST OPERATION OF IMPROPERLY  
20 EQUIPPED BOAT. A person may not operate or give permission for the  
21 operation of a boat on state waters which is not equipped as required by  
22 the regulations adopted by the department to implement AS 05.26.100 and  
23 05.26.110.

24 Sec. 05.26.160. OBSERVER. (a) A person may not operate a vessel  
25 on state waters to tow a person on water skis, aquaplane, surfboard, or  
26 a similar device unless there is in the vessel a competent person, in  
27 addition to the operator, in a position to observe the progress of the  
28 person being towed.

29 (b) This section applies to all vessels including a vessel other-

1 wise exempted from the requirements of this chapter under AS 05.26.230.

2 Sec. 05.26.170. NO SKIING SUNSET TO SUNRISE. (a) A person may  
3 not operate a vessel on state waters towing a person on water skis,  
4 aquaplane, surfboard, or a similar device, and a person may not engage  
5 in water skiing, aquaplaning, surfboarding, or a similar activity  
6 between the hours from sunset to sunrise.

7 (b) This section applies to all vessels including those otherwise  
8 exempted from the requirements of this chapter under AS 05.26.230.

9 ARTICLE 6. GENERAL PROVISIONS.

10 Sec. 05.26.180. DEPARTMENT MAY REGULATE MARINE EVENTS. (a) The  
11 department may regulate the holding of regattas, motorboat or other boat  
12 races, marine parades, tournaments or exhibitions on state waters, which  
13 by their nature or location may introduce extra or unusual hazards to  
14 the safety of the public. A person may not hold a regatta, motorboat or  
15 other boat race unless at least 30 days before the event is to be held,  
16 the person applies to the department for permission to hold the event.  
17 The application shall set out the date, time, and proposed location of  
18 the event and other information the department may by regulation re-  
19 quire. The department shall adopt regulations concerning the safety of  
20 other vessels present at a marine event and persons on them, including  
21 observers or participants.

22 (b) A person is not required to secure a state permit under (a) of  
23 this section if a permit for the marine event has been obtained from the  
24 United States Coast Guard.

25 Sec. 05.26.190. AUTHORITY OF PEACE OFFICER. (a) A peace officer  
26 may stop and board a vessel to inspect the vessel or to determine com-  
27 pliance with this chapter. A peace officer may issue a summons for  
28 appearance in court or before a magistrate for violations of this chap-  
29 ter or of the regulations adopted under it. Law enforcement vessels

1 shall be marked to identify them as designated enforcement vessels.

2 (b) If a peace officer observes a boat being used without the  
3 safety equipment required by regulations adopted under AS 05.26.100 and  
4 05.26.110 or if he observes a vessel being used in an overloaded or  
5 other unsafe condition as defined by regulations adopted by the depart-  
6 ment, and the use creates a hazardous condition, he shall direct the  
7 operator to take immediate and reasonable steps necessary for the safety  
8 of the operator and any passengers on board, including directing the  
9 operator to return to mooring and to remain there until the situation  
10 creating the hazard is corrected or ended.

11 Sec. 05.26.200. VESSELS REQUIRED TO COOPERATE. A vessel if under-  
12 way in state waters and upon being hailed by a peace officer shall stop  
13 immediately and lay to or shall permit the officer to come aboard.

14 Sec. 05.26.210. POWERS OF ENFORCEMENT OFFICERS. A peace officer  
15 or a person designated by the department to enforce this chapter may

16 (1) arrest a person for an offense prohibited by this chapter  
17 or a regulation adopted under this chapter which occurs in his presence;

18 (2) execute warrants and search warrants required to enforce  
19 this chapter and regulations adopted to implement this chapter;

20 (3) serve subpoenas issued for the examination, investiga-  
21 tion, and trial for the commission of an offense prohibited by this  
22 chapter and regulations adopted under this chapter;

23 (4) board a vessel which is in use to examine documents and  
24 safety equipment and to search without warrant a vessel which is not at  
25 its regular mooring or berth, if the officer or designated person be-  
26 lieves that an offense prohibited by this chapter or the regulations  
27 adopted to implement this chapter has been committed;

28 (5) detain and arrest the operator of a suspected stolen  
29 vessel;

1 (6) enter upon any land or water in the performance of his  
2 duty; and

3 (7) demand and secure proper assistance in case of emergency.

4 Sec. 05.26.220. PENALTIES. (a) A person who fails to comply with  
5 AS 05.26.010(b), 05.26.020(c), 05.26.060, 05.26.070, 05.26.160, 05.26.-  
6 170, 05.26.180 or 05.26.190, or the regulations implementing these  
7 sections, is guilty of a violation and upon conviction is punishable by  
8 a fine of not less than \$10 or more than \$50 for each violation.

9 (b) A person who fails to comply with AS 05.26.150 or the regula-  
10 tions implementing AS 05.26.100 or 05.26.110 is guilty of a violation.

11 (c) A person who fails to comply with AS 05.26.130 and 05.26.140  
12 is guilty of a class B misdemeanor, and in addition to the penalties  
13 provided by law, the person may be prohibited from operating a vessel on  
14 state waters for a period of not more than three years.

15 Sec. 05.26.230. EXEMPTIONS. Unless specifically provided other-  
16 wise in this chapter, the following vessels are exempt from the re-  
17 quirements of this chapter:

18 (1) a vessel from a country other than the United States  
19 which is temporarily using state waters;

20 (2) a military or public vessel owned by the United States,  
21 which is not a recreational-type public vessel;

22 (3) a vessel owned by a state or municipality which is used  
23 for governmental purposes and which is clearly identifiable as a public  
24 vessel; and

25 (4) a vessel's lifeboat.

26 Sec. 05.26.240. DEFINITIONS. In this chapter,

27 (1) "associated equipment" means

28 (A) a system, part, or component of a boat as originally  
29 manufactured or a similar part or component manufactured or sold

1 for replacement, repair, or improvement of the system, part, or  
2 component excluding radio equipment;

3 (B) an accessory or equipment for, or appurtenance to, a  
4 boat excluding radio equipment;

5 (C) a marine safety article, accessory, or equipment,  
6 excluding radio equipment, intended for use by a person on board a  
7 boat;

8 (2) "boat" means a vessel

9 (A) manufactured or used primarily for noncommercial  
10 use;

11 (B) leased, rented, or chartered to another for non-  
12 commercial use;

13 (C) engaged in carrying six or fewer passengers;

14 (3) "commissioner" means the commissioner of public safety;

15 (4) "department" means the Department of Public Safety;

16 (5) "manufacturer" means a person engaged in

17 (A) the manufacture, construction, or assembly of boats  
18 or associated equipment;

19 (B) the importation into the United States for sale of  
20 boats; or

21 (C) the manufacture or construction of components for  
22 boats and associated equipment to be sold for later assembly;

23 (6) "motorboat" means a vessel

24 (A) propelled by machinery whether or not the machinery  
25 is the principal source of propulsion; and

26 (B) which is not required by the United States Coast  
27 Guard to have a valid marine document as a vessel of the United  
28 States;

29 (7) "operator" means the person who is in control or in

1 charge of a vessel while it is in use;

2 (8) "outboard motor" means a completely self-contained pro-  
3 pulsion system, excluding fuel supply, which is used to propel a motor-  
4 boat and which is detachable from the motorboat as a unit;

5 (9) "owner" means a person who claims lawful possession of a  
6 vessel by virtue of a legal title or equitable interest which entitles  
7 him to the possession;

8 (10) "passenger" means every person on board a vessel other  
9 than

10 (A) the owner or his representative;

11 (B) the operator;

12 (C) members of the crew engaged in the business of the  
13 vessel who have not contributed consideration for their carriage  
14 and who are paid for their services;

15 (D) a guest on board a vessel which is being used ex-  
16 clusively for pleasure purpose who has not contributed considera-  
17 tion directly or indirectly for his carriage;

18 (11) "security interest" means an interest which is reserved  
19 or created by an agreement and which secures payment or performance of  
20 an obligation and is valid against third parties generally;

21 (12) "state waters" means the waters within the territorial  
22 limits of the state, and the marginal sea adjacent to the state and the  
23 high seas when navigated as a part of a journey or ride to or from the  
24 shore of the state, but excludes private waters;

25 (13) "use" means to operate, navigate, or employ;

26 (14) "vessel" means all descriptions of watercraft, other than  
27 a seaplane on the water, used or capable of being used as a means of  
28 transportation on the water.

29 Sec. 05.26.250. SHORT TITLE. This chapter may be cited as the

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Alaska Boating Safety Act.

\* Sec. 2. AS 44.41 is amended by adding a new section to read:

Sec. 44.41.030. DIVISION OF BOATING AND WATERWAYS SAFETY. The governor shall establish in the Department of Public Safety a division of boating and waterways safety to carry out the provisions of AS 05.26 and other appropriate duties designated by the governor. The director of the division of boating and waterways safety shall be experienced in boating safety and law enforcement.

\* Sec. 3. AS 05.25 is repealed.