

Introduced: 6/2/81
Referred: Judiciary

1 IN THE HOUSE

BY ZHAROFF AND BUCHHOLDT

2 HOUSE BILL NO. 599

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST 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)
20 of this section.

21 Sec. 05.26.020. CERTIFICATE OF TITLE REQUIRED. (a) An owner of
22 a motorboat for which an identifying number is required by regulations
23 adopted under AS 05.26.010 shall apply to the department for a certifi-
24 cate of title for the motorboat.

25 (b) The hull serial number of the manufacturer shall be used for
26 the identification of a motorboat on the certificate of title issued by
27 the department. If there is no hull serial number for the motorboat or
28 if the hull serial number has been obliterated, the department shall
29 assign a hull serial number to be permanently affixed to the motorboat.

1 (c) A certificate of title is evidence of the ownership of a
2 motorboat or the existence of a security interest in the motorboat. A
3 certificate of title is valid for the life of the motorboat while the
4 certificate is owned or held by the legal holder of the certificate.

5 (d) A person may not operate or give permission for the operation
6 of a motorboat on state waters unless the motorboat is covered by a
7 valid certificate of title.

8 Sec. 05.26.030. CERTIFICATE OF NUMBER REQUIRED. (a) A certifi-
9 cate of number issued by the department is required for a motorboat
10 operated on state waters.

11 (b) A certificate of number is valid for three years. The year
12 of expiration of the certificate of number shall be indicated by a
13 validation sticker issued with and attached to the certificate of
14 number.

15 Sec. 05.26.040. CERTIFICATE OF NUMBER AND CERTIFICATE OF TITLE
16 FEES. (a) The annual fee for the original, renewal, or transfer of a
17 certificate of number is \$5.

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

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

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

25 (e) If a certificate of number or title is lost or destroyed, the
26 person whose name appears on the certificate as the owner may apply for
27 a duplicate certificate by submitting a request to the department with
28 a fee of \$2.

29 Sec. 05.26.050. PUBLIC RECORDS. Records of the department made

1 or kept as required by regulations adopted under AS 05.26.010 and
2 05.26.020 are public records.

3 ARTICLE 2. COMPREHENSIVE SAFETY AND EDUCATION PROGRAM.

4 Sec. 05.26.060. SAFETY AND EDUCATION. (a) The department, in
5 cooperation with the Department of Education, shall plan, develop, and
6 execute public education and safety programs designed to reduce boating-
7 related accidents.

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

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

14 ARTICLE 3. ACCIDENTS AND CASUALTY REPORTING SYSTEM REQUIREMENTS.

15 Sec. 05.26.070. IMMEDIATE NOTIFICATION OF DEATH OR DISAPPEARANCE.

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

- 20 (1) the date, time, and exact location of the occurrence;
21 (2) the name of each person who died or disappeared;
22 (3) the number and name of the vessel; and
23 (4) the names and addresses of the owner and operator.

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

27 (c) This section applies to all vessels except those exempted by
28 AS 05.26.210(2).

29 Sec. 25.26.080. ACCIDENT REPORT. (a) The operator of a vessel

1 shall submit an accident report to the department if, as a result of an
2 occurrence that involves a vessel or its equipment,

3 (1) a person dies;

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

6 (3) there is complete loss of the vessel or damage to
7 another vessel or public property is more than \$500;

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

10 (b) The accident report required by (a) of this section must be
11 made

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

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

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

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

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

27 (e) This section applies to all vessels except those exempted by
28 AS 05.26.210(2).

29 Sec. 05.26.090. FORM OF ACCIDENT REPORT. The department shall

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

6 Sec. 05.26.100. DUTY TO GIVE ASSISTANCE. (a) The operator of a
7 vessel involved in a collision, accident, or other casualty, to the
8 extent he can do so without serious danger to his own vessel or persons
9 aboard, shall give all practical and necessary assistance to persons
10 affected by or in danger from the collision, accident or casualty. He
11 shall also give his name, address, and the identification of his vessel
12 to an injured person and to the owner of damaged property. The duties
13 imposed by this subsection are in addition to other duties imposed by
14 law.

15 (b) This section applies to all vessels except those exempted by
16 AS 05.26.210(2).

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

18 Sec. 05.26.110. REQUIRED SAFETY EQUIPMENT. The commissioner
19 shall adopt regulations classifying the types of safety equipment for a
20 boat operating in state waters. The regulations shall be consistent
21 with the regulations adopted by the United States Coast Guard and
22 contained in Title 33, Code of Federal Regulations, Subchapter S and
23 Title 46 Code of Federal Regulations Subchapter C, as amended.

24 Sec. 05.26.120. NAVIGATION LIGHTS REQUIRED. Depending on the
25 nature of the waters being navigated, a boat operating on state waters
26 must exhibit navigation lights in accordance with the International
27 Regulations for Preventing Collisions at Sea, 1972 or the Inland Rules
28 and Pilot Rules as contained in Title 33, Code of Federal Regulations.

29 Sec. 05.26.130. 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. 05.26.140. 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) A person shall operate a vessel at a safe speed so that he
11 can take proper and effective action to avoid collisions and endanger-
12 ment and damage to the property of another person.

13 (c) This section applies to all vessels including those otherwise
14 exempted from the requirements of this chapter under AS 05.26.210.

15 Sec. 05.26.150. PROHIBITION AGAINST OPERATION OF IMPROPERLY
16 EQUIPPED BOAT. A person may not operate or give permission for the
17 operation on state waters of a boat which is not equipped as required
18 by the regulations adopted by the department to implement AS 05.26.110
19 and 05.26.120.

20 ARTICLE 6. GENERAL PROVISIONS.

21 Sec. 05.26.160. AUTHORITY OF PEACE OFFICER. (a) A peace officer
22 may stop and board a vessel to inspect the vessel or to determine com-
23 pliance with this chapter. A peace officer may issue a summons for
24 appearance in court or before a magistrate for violations of this chap-
25 ter or of the regulations adopted under it.

26 (b) If a peace officer observes a boat being used without the
27 safety equipment required by regulations adopted under AS 05.26.110 and
28 05.26.120 or if he observes a vessel being used in an overloaded or
29 other unsafe condition as defined by regulations adopted by the depart-

1 ment, and the use creates a hazardous condition, he shall direct the
2 operator to take immediate and reasonable steps necessary for the
3 safety of the operator and any passengers on board, including directing
4 the operator to return to mooring and to remain there until the situa-
5 tion creating the hazard is corrected or ended.

6 (c) A blue revolving or pulsating light may be used by authorized
7 law enforcement vessels and no others, and may be displayed during the
8 day or night, when the vessel is engaged in direct law enforcement
9 activities if identification of the law enforcement vessel is desirable
10 or if it is necessary for safety reasons.

11 Sec. 05.26.170. VESSELS REQUIRED TO COOPERATE. Upon being hailed
12 by a peace officer, a vessel underway in state waters shall stop im-
13 mediately and lay to or shall permit the officer to come aboard.

14 Sec. 05.26.180. 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
17 chapter or a regulation adopted under this chapter which occurs in his
18 presence;

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

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

24 (4) board a vessel which is attended and appears to be in
25 danger or is a danger to navigation or surrounding property;

26 (5) detain and arrest the operator of a suspected stolen
27 vessel;

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

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

2 Sec. 05.26.190. ENFORCEMENT PLAN. State, municipal, and village
3 law enforcement agencies may jointly prepare a water safety enforcement
4 plan to enforce through voluntary mutual cooperation the provisions of
5 this chapter and regulations adopted under this chapter.

6 Sec. 05.26.200. PENALTIES. (a) A person who fails to comply
7 with AS 05.26.010(b), 05.26.020(d), 05.26.070, or 05.26.080, or the
8 regulations implementing these sections, is guilty of a violation and
9 upon conviction is punishable by a fine of not less than \$10 or more
10 than \$50 for each violation.

11 (b) A person who fails to comply with AS 05.26.150 or the regula-
12 tions implementing AS 05.26.110 or 05.26.120 is guilty of a violation.

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

17 Sec. 05.26.210. EXEMPTIONS. Unless specifically provided other-
18 wise in this chapter, the following vessels are exempt from the re-
19 quirements of this chapter:

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

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

24 (3) a vessel owned by a state or municipality which is used
25 for governmental purposes and which is clearly identifiable as a public
26 vessel.

27 Sec. 05.26.220. AUTHORITY OF COMMISSIONER. The commissioner
28 shall adopt regulations necessary to carry out the provisions of this
29 chapter.

1 Sec. 05.26.230. DEFINITIONS. In this chapter,

2 (1) "associated equipment" means

3 (A) a system, part, or component of a boat as original-
4 ly manufactured or a similar part or component manufactured or
5 sold for replacement, repair, or improvement of the sytem, part,
6 or component, excluding radio equipment;

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

9 (C) a marine safety article, accessory, or equipment,
10 excluding radio equipment, intended for use by a person on board a
11 boat;

12 (2) "boat" means a vessel

13 (A) manufactured or used primarily for noncommercial
14 use;

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

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

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

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

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

21 (A) the manufacture, construction, or assembly of boats
22 or associated equipment;

23 (B) the importation into the United States for sale of
24 boats; or

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

27 (6) "motorboat" means a vessel

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

1 (B) which is not required by the United States Coast
2 Guard to have a valid marine document as a vessel of the United
3 States;

4 (7) "operator" means the person who is in control or in
5 charge of a vessel while it is in use;

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

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

11 (A) the owner or his representative;

12 (B) the operator;

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

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

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

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

26 (12) "use" means to operate, navigate, or employ;

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

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Sec. 05.26.240. SHORT TITLE. This chapter may be cited as the 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.