

1 IN THE HOUSE

BY ULMER, GRUENBERG,
HUDSON AND TAYLOR

2

HOUSE BILL NO. 134

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to boating safety, boating accidents, and boat numbering; and providing for an effective date."

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

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* Section 1. AS 05.25 is amended by adding new sections to read:

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ARTICLE 1. BOATING SAFETY.

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Sec. 05.25.200. BOATING SAFETY EDUCATION. The department shall offer public education programs designed to reduce boating accidents. The department may cooperate with or award contracts to government agencies and private organizations to provide boating safety education programs.

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Sec. 05.25.210. SAFETY EQUIPMENT. (a) A boat must carry and exhibit between sunset and sunrise at least one white light to show all around the horizon.

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(b) A boat must carry at least one readily accessible life preserver, lifebelt, ring buoy, or other device of a type approved by the United States Coast Guard for each person on the boat. A boat carrying passengers for hire shall carry at least one readily accessible life preserver of a type approved by the United States Coast Guard for passenger-carrying boats for each person on the boat.

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(c) The commissioner may require by regulation that a boat or class of boats carry additional equipment necessary for the safety of persons and property. To the extent determined by the commissioner to be consistent with the safety of persons and property, the regulations

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1 adopted under this subsection must conform to the applicable regula-
2 tions of the United States Coast Guard.

3 Sec. 05.25.220. DIVER'S FLAG. (a) A person who is in the water
4 using an underwater breathing device may display a diver's flag while
5 diving operations are in progress. The diver's flag may be displayed
6 on a boat or surface float, must extend at least three feet above the
7 surface of the water, and must be placed at or near the point of
8 submergence. A diver shall remain within 100 feet of the diver's flag
9 while at or near the surface. The diver's flag constitutes a warning
10 that a diver may be within 100 feet of the flag. A diver's flag must
11 be constructed of rigidly supported material at least 12 inches high
12 by 12 inches wide with a white diagonal stripe on a red background.

13 (b) A boat operator within sight of a diver's flag shall proceed
14 with caution, steering clear of the flag by a distance of at least 100
15 feet. If, because of the location of the diver's flag, it is impossi-
16 ble to steer clear of the flag by at least 100 feet, then the boat
17 operator shall proceed at no-wake speed or five miles per hour, which-
18 ever is necessary to maintain steerage in the seaway.

19 (c) A diver's flag under this section may be used with, but not
20 in place of, an International Code flag "A" if required under 33
21 U.S.C. following 1602 (Rule 27, International Regulations for Prevent-
22 ing Collisions at Sea, 1972).

23 Sec. 05.25.230. PROHIBITED OPERATION. (a) A person may not
24 operate a boat or manipulate water skis, a surfboard, or a similar
25 device on state water in a reckless or negligent manner so as to
26 endanger the life or property of another person.

27 (b) A person may not operate or give permission for another
28 person to operate a boat that is not equipped as required under this
29 chapter and regulations adopted under this chapter.

1 Sec. 05.25.290. APPLICATION OF AS 05.25.210 - 05.25.290; REGU-
2 LATIONS. (a) AS 05.25.210 - 05.25.290 apply to boats operated in
3 state water, except when inconsistent with applicable federal law, in
4 which case federal law prevails.

5 (b) The commissioner shall adopt regulations to implement AS 05.
6 25.210 - 05.25.290. Each regulation must specify those waters of the
7 state to which the regulation applies. A regulation may not apply to
8 water where an inconsistent federal law prevails.

9 ARTICLE 2. BOATING ACCIDENTS.

10 Sec. 05.25.300. DUTIES OF OPERATORS AND WITNESSES AT ACCIDENTS.

11 (a) The operator of a boat that is involved in an accident resulting
12 in injury or death to a person or in damage to property shall immedi-
13 ately stop the boat as near as possible to the scene of the accident.
14 The operator shall remain at the scene of the accident until the
15 operator has fulfilled the requirements of (b) of this section.

16 (b) The operator of a boat that is involved in an accident
17 resulting in injury or death to a person or in damage to property
18 shall

19 (1) give the name and address of each occupant of the boat
20 and identifying number of the boat that the operator is operating to

21 (A) the operator of any other boat involved in the
22 accident;

23 (B) the owner or a surviving occupant of the other
24 boat or the owner of the damaged property; or

25 (C) another appropriate person; and

26 (2) render reasonable assistance to each person injured in
27 the accident, including the conveying or providing for the conveying
28 of the injured person to a physician or hospital for medical treat-
29 ment, if it is apparent that treatment is necessary or if conveyance

1 is requested by an injured person.

2 (c) A witness to a boating accident shall furnish the witness's
3 name and address to an operator or occupant of each boat involved in
4 the accident, to a person injured in the accident, and to the owner of
5 property damaged in the accident.

6 Sec. 05.25.305. NOTICE OF ACCIDENT RESULTING IN DEATH OR DISAP-
7 PEARANCE. (a) When a person dies as a result of an accident that
8 involves a boat or its equipment or a person disappears from a boat,
9 the operator shall, without delay, by the quickest means available,
10 notify the department of the

- 11 (1) date, time, and exact location of the occurrence;
12 (2) name of each person who died or disappeared;
13 (3) number and name of the operator's boat; and
14 (4) name and address of the owner and the operator.

15 (b) If the operator of a boat cannot give the notice required
16 under (a) of this section, the owner of the boat, if different from
17 the operator, shall submit the report or cause the report to be sub-
18 mitted. If the operator and the owner of the boat cannot give the
19 notice, then each person present on the boat when the accident or
20 disappearance occurred shall notify the department or determine that
21 the notice has been given.

22 Sec. 05.25.310. ACCIDENT REPORT REQUIRED. (a) The operator of
23 a boat involved in an accident, or the owner of the boat if the opera-
24 tor cannot submit a report, shall submit a report of the accident to
25 the department if the accident results in

- 26 (1) the death of a person;
27 (2) injury to a person requiring medical treatment beyond
28 first aid;
29 (3) the disappearance from the boat of a person under

1 circumstances indicating death or injury;

2 (4) damage to the boat or other property in an aggregate
3 amount of more than \$200; or

4 (5) complete loss of the boat.

5 (b) The department may require a person who submits an insuffi-
6 cient report under this section to file a supplemental report, and may
7 require a witness to the accident to submit a report to the depart-
8 ment.

9 (c) A report required under this section shall be submitted in
10 the form and manner prescribed by the department within

11 (1) 48 hours after the accident if a person dies within 24
12 hours after the accident;

13 (2) 48 hours after the accident if a person is injured and
14 requires medical treatment beyond first aid;

15 (3) 48 hours after the disappearance of a person from a
16 boat if circumstances indicate death or injury to the person; and

17 (4) 10 days after the accident or death if an earlier
18 report is not required under this subsection.

19 (d) The department shall prepare forms for accident reports
20 required under this section and shall provide the forms to the public.
21 The report form must request the information required in casualty and
22 accident reports under United States Coast Guard regulations and may
23 request other information the department considers necessary. The
24 person who completes the form shall sign and date it upon completion.

25 Sec. 05.25.315. DEATH CERTIFICATES. Within 60 days after the
26 death occurs, the state registrar of vital statistics shall forward to
27 the department a copy of the death certificate for each death result-
28 ing from a boat accident.

29 Sec. 05.25.320. CONFIDENTIALITY OF ACCIDENT REPORT. (a) An

1 accident report submitted to the department is without prejudice to
2 the individual reporting and is solely for the confidential use of
3 administrative and enforcement agencies.

4 (b) The department upon written request, shall disclose the
5 following information, if available, to a party involved in an acci-
6 dent, or, in the event of the party's death, to a member of the par-
7 ty's family or to the party's personal representative:

8 (1) the identity of the owner, operator, and occupants of
9 each boat involved in the accident;

10 (2) the identifying number of each boat involved in the
11 accident;

12 (3) the name of each company insuring the owner or operator
13 of each boat involved in the accident; and

14 (4) the identity of each witness to the accident.

15 (c) A report filed under AS 05.25.310 - 05.25.320 may not be
16 used as evidence in a civil action or criminal prosecution arising out
17 of the accident. The department shall furnish, upon demand of a
18 person who has or claims to have made a report under AS 05.25.310 -
19 05.25.320 or upon order of a court, a certificate stating whether a
20 specified accident report has been filed with the department. The
21 certificate is admissible in a civil action or criminal prosecution
22 solely to prove compliance or failure to comply with the reporting
23 requirement.

24 (d) The department shall compile and may analyze all accident
25 reports. The department shall publish at least annually, statistical
26 information relating to boat accidents.

27 (e) In response to a request from an authorized official or
28 agency of the United States, or in compliance with United States Coast
29 Guard regulations or a requirement under 46 U.S.C. 6101 - 6103, the

1 department shall provide information compiled or otherwise available
2 to the department from the accident reports required under AS 05.-
3 25.310 - 05.25.320.

4 Sec. 05.25.325. APPLICATION OF AS 05.25.300 - 05.25.320. (a)
5 The provisions of AS 05.25.300 - 05.25.320 apply to all boats operated
6 in state water, except

- 7 (1) as provided in this section or AS 05.25.910;
8 (2) when inconsistent with an applicable federal law or
9 regulation in which case the federal law or regulation prevails.

10 (b) The provisions of AS 05.25.300 - 05.25.320 do not apply to
11 (1) a boat that has a valid document issued by the United
12 States Coast Guard and that is operated only for nonrecreational
13 purposes;

14 (2) foreign boats operated temporarily in state water only
15 for nonrecreational purposes;

16 (3) a boat owned and operated for government purposes by
17 the United States or by an entity of the United States; or

18 (4) a ship's lifeboat.

19 ARTICLE 3. NUMBERING AND REGISTRATION.

20 Sec. 05.25.400. CERTIFICATE OF NUMBER REQUIRED ON BOAT. (a) A
21 person may not operate a boat on state water, and an owner of a boat
22 may not knowingly allow another person to operate the owner's boat on
23 state water, unless

24 (1) the owner of the boat holds a current, valid certifi-
25 cate of number issued in the owner's name as owner; and

26 (2) the certificate of number is

27 (A) carried on the boat in a manner that protects the
28 certificate from destruction or deterioration; and

29 (B) available for inspection by a state, federal, or

1 municipal law enforcement officer.

2 (b) A certificate of number for a boat less than 26 feet in
3 length and leased or rented to another person for that person's non-
4 commercial operation for a period of less than seven days may be
5 retained on shore by the boat's owner or representative at the place
6 from which the boat departs or returns to the possession of the owner
7 or the owner's representative. If the certificate of number is re-
8 tained on shore, then a copy of the lease or rental agreement shall be
9 carried on the boat. The lease or rental agreement must

10 (1) be signed by the owner of the boat or the owner's
11 representative, and by the person leasing or renting the boat; and

12 (2) specify the period for which the boat is leased or
13 rented.

14 Sec. 05.25.405. PLACEMENT OF IDENTIFYING NUMBER AND DECAL. (a)
15 A person may not operate a boat on state water unless the boat dis-
16 plays the valid identifying number awarded to the boat and the valida-
17 tion decal in the manner required under this section.

18 (b) An identifying number shall be painted on or permanently
19 attached to each side of the forward half of the vessel in a position
20 that is clearly visible for identification. Each number must read
21 from left to right and must be in plain vertical block characters of
22 good proportion not less than three inches in height. The number must
23 be of a color that contrasts with the color of the background and
24 shall be maintained so that it is clearly visible and legible. Each
25 number must have spaces or hyphens that are equal to the width of a
26 letter other than "I" or a number other than "1" between the letter
27 and number groupings.

28 (c) On boats so configured that a number on the hull or super-
29 structure would not be easily visible, the number shall be painted on

1 or attached to a backing plate that is attached to the forward half of
2 the boat so that the number is visible from each side of the boat.

3 (d) A number other than the identifying number may not appear on
4 the forward half of the boat.

5 (e) A validation decal issued under AS 05.25.425 shall be placed
6 three inches to the rear of the identifying number.

7 Sec. 05.25.410. APPLICATION FOR CERTIFICATE OF NUMBER. (a) The
8 owner of a boat that is operated principally on state water, or a
9 dealer who wishes to demonstrate one or more boats on state water,
10 shall apply to the department for a certificate of number. The appli-
11 cation must include

12 (1) the true name of the owner or dealer;

13 (2) the residence or business address of the owner or
14 dealer;

15 (3) a description of the boat, or in the case of a dealer a
16 description of the lengths and types of boats, to be operated under
17 the certificate; and

18 (4) other information required by the department or by
19 United States Coast Guard regulations.

20 (b) The owner or dealer shall sign the application and shall pay
21 the prescribed fee at the time of application.

22 (c) A certificate of number may be issued to a dealer for use on
23 more than one boat.

24 Sec. 05.25.415. APPLICATION BY OWNER HAVING NUMBER AWARDED BY
25 FEDERAL GOVERNMENT OR ANOTHER STATE. The owner of a boat having a
26 valid certificate of number that has been issued under federal law or
27 a federally approved numbering system of another state shall apply to
28 the department for an identifying number within 10 days after the
29 expiration of the applicable reciprocity period provided in

1 AS 05.25.445(6) or (7).

2 Sec. 05.25.420. CERTIFICATE OF NUMBER FEES. (a) The commis-
3 sioner shall adopt regulations establishing fees for original, renew-
4 al, and duplicate certificates of number, and for dealer demonstration
5 certificates of number.

6 (b) The fee for a certificate of number shall be prorated ac-
7 cording to the number of months the certificate will be in effect.

8 (c) The fees in this section are in addition to any other tax or
9 license fee for a boat.

10 Sec. 05.25.425. ISSUANCE OF CERTIFICATE OF NUMBER AND VALIDATION
11 DECALS. (a) If the application is in order, the department shall
12 issue to the owner a certificate of number that states the identifying
13 number awarded to the boat, the name and address of the owner, the
14 state of principal use, the normal use of the boat, the description of
15 the boat, the manufacturer's hull identification number if one exists,
16 make, year, length, type of hull material, type of propulsion and type
17 of fuel, the issue date, and the expiration date of the certificate of
18 number. The certificate of number must be wallet size.

19 (b) The department shall issue a set of validation decals bear-
20 ing the year in which the certificate of number expires. The year
21 shall also be indicated by the color blue, international orange,
22 green, or red, in rotation in the order stated, beginning with blue
23 for stickers that expire in 1993. A validation decal must be a square
24 approximately three inches on each side.

25 Sec. 05.25.430. EXPIRATION OF CERTIFICATE OF NUMBER; RENEWAL OF
26 CERTIFICATE AND DECALS. (a) A certificate of number expires three
27 years after the last day of the month in which the certificate is
28 issued.

29 (b) The department may require the surrender of the expired

1 certificate of number before issuing a new certificate of number.

2 (c) Renewal of the certificate of number does not change the
3 identifying number awarded to a boat by the department.

4 (d) An application for renewal of a certificate of number shall
5 be made in the same manner as provided in AS 05.25.410. The applica-
6 tion shall be accompanied by the fee required under AS 05.25.420. The
7 department shall renew certificates of number and issue validation
8 decals in the same manner as provided in AS 05.25.425.

9 Sec. 05.25.435. VALIDITY OF CERTIFICATE OF NUMBER. A certifi-
10 cate of number issued under this chapter is invalid if

11 (1) the boat is subsequently documented or required to be
12 documented;

13 (2) the boat is sold, destroyed, or abandoned;

14 (3) the applicant supplies false information in the appli-
15 cation for the certificate;

16 (4) the fees for issuance or renewal of the certificate are
17 not paid;

18 (5) 60 days have elapsed since the boat ceased to be used
19 principally in the state; or

20 (6) the owner, through legal process, involuntarily loses
21 the ownership interest in the boat for which the certificate is is-
22 sued.

23 Sec. 05.25.440. REPORT OF TRANSFER, ABANDONMENT, OR DESTRUCTION
24 OF BOAT, OR CHANGE OF ADDRESS OF OWNER. (a) The owner of a boat for
25 which a certificate of number has been issued under this chapter shall
26 notify the department of any of the following events within 15 days
27 after the event occurs:

28 (1) the transfer of all or a part of the ownership interest
29 in the boat;

- 1 (2) the theft or recovery of the boat;
2 (3) the destruction of the certificate of number; or
3 (4) an event described in AS 05.25.435.

4 (b) Within 15 days after a change of address, the owner of a
5 boat for which a certificate of number has been awarded under this
6 chapter shall report the change to the department.

7 Sec. 05.25.445. EXEMPTIONS. The following classes of boats are
8 exempt from the provisions of AS 05.25.400 - 05.25.440:

9 (1) a boat that is documented by the United States Coast
10 Guard;

11 (2) a foreign boat operated only temporarily in state
12 water;

13 (3) a boat, other than a recreational type public boat,
14 owned and operated by the United States or an entity or political
15 subdivision of the United States, or owned and operated for government
16 purposes by a state or an entity or political subdivision of a state;

17 (4) a ship's lifeboat;

18 (5) a boat belonging to a class of boats that has been
19 exempted from the provisions of AS 05.25.400 - 05.25.440 by the de-
20 partment under AS 05.25.910;

21 (6) a boat with a certificate of number issued by the
22 United States Coast Guard, for a period of three years after the date
23 of issuance of the certificate;

24 (7) a boat with a current, valid certificate of number
25 issued by another state having a federally approved numbering system,
26 for a period of 60 days after arriving in the state; and

27 (8) a boat that is not propelled by machinery.

28 ARTICLE 4. GENERAL PROVISIONS.

29 Sec. 05.25.900. ACCOUNTING AND DISPOSITION OF FEES. The

1 commissioner of administration shall separately account for fees col-
2 lected under this chapter that the department deposits in the general
3 fund. The annual estimated balance in the account may be used by the
4 legislature to make appropriations to the department to carry out the
5 purposes of this chapter.

6 Sec. 05.25.910. EXEMPTIONS. Except when inconsistent with
7 federal laws and regulations, the commissioner may exempt a class of
8 boats from a provision of this chapter if the commissioner determines
9 that the safety of persons and property will not be materially promot-
10 ed by applying that provision to the class of boats. The commissioner
11 may exempt a class of boats from the numbering and registration re-
12 quirements of AS 05.25.400 - 05.25.440 if

13 (1) the commissioner determines that the numbering will not
14 materially aid in the identification of the boats; and

15 (2) the United States Secretary of Transportation has
16 exempted that class of boats from numbering.

17 Sec. 05.25.920. ENFORCEMENT. A peace officer may enforce this
18 chapter and in the exercise of enforcement may stop and board boats
19 that the officer reasonably believes are or may be subject to this
20 chapter.

21 Sec. 05.25.930. PENALTIES. A person who violates a provision of
22 this chapter is guilty of a misdemeanor and is punishable by a fine of
23 not more than \$500, or by imprisonment of not more than six months, or
24 by both.

25 Sec. 05.25.940. REGULATIONS. The commissioner shall adopt
26 regulations under the Administrative Procedure Act (AS 44.62) that are
27 necessary for the implementation of this chapter.

28 Sec. 05.25.990. DEFINITIONS. In this chapter, unless the con-
29 text requires otherwise,

1 (1) "boat" means any type of watercraft used or capable of
2 being used as a means of transportation on water, but does not include
3 aircraft equipped to land on water;

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

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

9 (4) "dealer" means a person who engages wholly or in part
10 in the business of buying, selling, or exchanging boats, either out-
11 right or on conditional sale, bailment lease, chattel mortgage, or
12 otherwise;

13 (5) "department" means the Department of Public Safety;

14 (6) "length" means the length of a boat measured from end
15 to end over the deck excluding sheer;

16 (7) "operate" means to navigate or otherwise use a boat on
17 water;

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

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

24 (10) "passenger" means a person on board a boat who is not
25 the master, operator, crew member, or other person engaged in a capac-
26 ity in the business of the boat;

27 (11) "state of principal use" means the state on whose water
28 a boat is used or is to be used during most of a calendar year;

29 (12) "state water" means water within the territorial limits

1 of the state whether navigable or nonnavigable.

2 * Sec. 2. AS 05.25.010, 05.25.012, 05.25.020, 05.25.030, 05.25.040,
3 05.25.050, 05.25.060, 05.25.070, 05.25.080, 05.25.090, and 05.25.100 are
4 repealed.

5 * Sec. 3. This Act takes effect January 1, 1990.