

**HOUSE BILL NO. 449**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY REPRESENTATIVE HOFFMAN**

**Introduced: 2/4/94**

**Referred: Resources, Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to boating safety, boating accidents, and boat numbering; and  
2 providing for an effective date."

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

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

5 **ARTICLE 1. BOATING SAFETY.**

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

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

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

1 readily accessible life preserver of a type approved by the United States Coast Guard  
2 for passenger-carrying boats for each person on the boat.

3 (c) The commissioner may require by regulation that a boat or class of boats  
4 carry additional equipment necessary for the safety of persons and property. To the  
5 extent determined by the commissioner to be consistent with the safety of persons and  
6 property, the regulations adopted under this subsection must conform to the applicable  
7 regulations of the United States Coast Guard.

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

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

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

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

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

31 Sec. 05.25.290. APPLICATION OF AS 05.25.210 - 05.25.290;

1 **REGULATIONS.** (a) AS 05.25.210 - 05.25.290 apply to boats operated in state  
2 water, except when inconsistent with applicable federal law, in which case federal law  
3 prevails.

4 (b) The commissioner shall adopt regulations to implement AS 05.25.210 -  
5 05.25.290. Each regulation must specify those waters of the state to which the  
6 regulation applies. A regulation may not apply to water where an inconsistent federal  
7 law prevails.

8 **ARTICLE 2. BOATING ACCIDENTS.**

9 **Sec. 05.25.300. DUTIES OF OPERATORS AND WITNESSES AT**  
10 **ACCIDENTS.** (a) The operator of a boat that is involved in an accident resulting in  
11 injury or death to a person or in damage to property shall immediately stop the boat  
12 as near as possible to the scene of the accident. The operator shall remain at the scene  
13 of the accident until the operator has fulfilled the requirements of (b) of this section.

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

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

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

19 (B) the owner or a surviving occupant of the other boat or the  
20 owner of the damaged property; or

21 (C) another appropriate person; and

22 (2) render reasonable assistance to each person injured in the accident,  
23 including the conveying or providing for the conveying of the injured person to a  
24 physician or hospital for medical treatment, if it is apparent that treatment is necessary  
25 or if conveyance is requested by an injured person.

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

29 **Sec. 05.25.305. NOTICE OF ACCIDENT RESULTING IN DEATH OR**  
30 **DISAPPEARANCE.** (a) When a person dies as a result of an accident that involves  
31 a boat or its equipment or a person disappears from a boat, the operator shall, without

1 delay, by the quickest means available, notify the department of the

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

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

4 (3) number and name of the operator's boat; and

5 (4) name and address of the owner and the operator.

6 (b) If the operator of a boat cannot give the notice required under (a) of this  
7 section, the owner of the boat, if different from the operator, shall submit the report  
8 or cause the report to be submitted. If the operator and the owner of the boat cannot  
9 give the notice, then each person present on the boat when the accident or  
10 disappearance occurred shall notify the department or determine that the notice has  
11 been given.

12 Sec. 05.25.310. ACCIDENT REPORT REQUIRED. (a) The operator of a  
13 boat involved in an accident, or the owner of the boat if the operator cannot submit  
14 a report, shall submit a report of the accident to the department if the accident results  
15 in

16 (1) the death of a person;

17 (2) injury to a person requiring medical treatment beyond first aid;

18 (3) the disappearance from the boat of a person under circumstances  
19 indicating death or injury;

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

22 (5) complete loss of the boat.

23 (b) The department may require a person who submits an insufficient report  
24 under this section to file a supplemental report, and may require a witness to the  
25 accident to submit a report to the department.

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

28 (1) 48 hours after the accident if a person dies within 24 hours after the  
29 accident;

30 (2) 48 hours after the accident if a person is injured and requires  
31 medical treatment beyond first aid;

1 (3) 48 hours after the disappearance of a person from a boat if  
2 circumstances indicate death or injury to the person; and

3 (4) 10 days after the accident or death if an earlier report is not  
4 required under this subsection.

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

10 Sec. 05.25.315. DEATH CERTIFICATES. Within 60 days after the death  
11 occurs, the state registrar of vital statistics shall forward to the department a copy of  
12 the death certificate for each death resulting from a boat accident.

13 Sec. 05.25.320. CONFIDENTIALITY OF ACCIDENT REPORT. (a) An  
14 accident report submitted to the department is without prejudice to the individual  
15 reporting and is solely for the confidential use of administrative and enforcement  
16 agencies.

17 (b) The department upon written request, shall disclose the following  
18 information, if available, to a party involved in an accident, or, in the event of the  
19 party's death, to a member of the party's family or to the party's personal  
20 representative:

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

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

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

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

27 (c) A report filed under AS 05.25.310 - 05.25.320 may not be used as  
28 evidence in a civil action or criminal prosecution arising out of the accident. The  
29 department shall furnish, upon demand of a person who has or claims to have made  
30 a report under AS 05.25.310 - 05.25.320 or upon order of a court, a certificate stating  
31 whether a specified accident report has been filed with the department. The certificate

1 is admissible in a civil action or criminal prosecution solely to prove compliance or  
2 failure to comply with the reporting requirement.

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

6 (e) In response to a request from an authorized official or agency of the United  
7 States, or in compliance with United States Coast Guard regulations or a requirement  
8 under 46 U.S.C. 6101 - 6103, the department shall provide information compiled or  
9 otherwise available to the department from the accident reports required under  
10 AS 05.25.310 - 05.25.320.

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

14 (1) as provided in this section or AS 05.25.910;

15 (2) when inconsistent with an applicable federal law or regulation in  
16 which case the federal law or regulation prevails.

17 (b) The provisions of AS 05.25.300 - 05.25.320 do not apply to

18 (1) a boat that has a valid document issued by the United States Coast  
19 Guard and that is operated only for nonrecreational purposes;

20 (2) foreign boats operated temporarily in state water only for  
21 nonrecreational purposes;

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

24 (4) a ship's lifeboat.

### 25 ARTICLE 3. NUMBERING AND REGISTRATION.

26 Sec. 05.25.400. CERTIFICATE OF NUMBER REQUIRED ON BOAT. (a)

27 A person may not operate a boat on state water, and an owner of a boat may not  
28 knowingly allow another person to operate the owner's boat on state water, unless

29 (1) the owner of the boat holds a current, valid certificate of number  
30 issued in the owner's name as owner; and

31 (2) the certificate of number is

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

3 (B) available for inspection by a state, federal, or municipal law  
4 enforcement officer.

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

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

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

15 Sec. 05.25.405. PLACEMENT OF IDENTIFYING NUMBER AND DECAL.

16 (a) A person may not operate a boat on state water unless the boat displays the valid  
17 identifying number awarded to the boat and the validation decal in the manner required  
18 under this section.

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

27 (c) On boats so configured that a number on the hull or superstructure would  
28 not be easily visible, the number shall be painted on or attached to a backing plate that  
29 is attached to the forward half of the boat so that the number is visible from each side  
30 of the boat.

31 (d) A number other than the identifying number may not appear on the

1 forward half of the boat.

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

4 Sec. 05.25.410. APPLICATION FOR CERTIFICATE OF NUMBER. (a) The  
5 owner of a boat that is operated principally on state water, or a dealer who wishes to  
6 demonstrate one or more boats on state water, shall apply to the department for a  
7 certificate of number. The application must include

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

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

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

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

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

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

18 Sec. 05.25.415. APPLICATION BY OWNER HAVING NUMBER  
19 AWARDED BY FEDERAL GOVERNMENT OR ANOTHER STATE. The owner  
20 of a boat having a valid certificate of number that has been issued under federal law  
21 or a federally approved numbering system of another state shall apply to the  
22 department for an identifying number within 10 days after the expiration of the  
23 applicable reciprocity period provided in AS 05.25.445(6) or (7).

24 Sec. 05.25.420. CERTIFICATE OF NUMBER FEES. (a) The commissioner  
25 shall adopt regulations establishing fees for original, renewal, and duplicate certificates  
26 of number, and for dealer demonstration certificates of number.

27 (b) The fee for a certificate of number shall be prorated according to the  
28 number of months the certificate will be in effect.

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

31 Sec. 05.25.425. ISSUANCE OF CERTIFICATE OF NUMBER AND

1 **VALIDATION DECALS. (a)** If the application is in order, the department shall issue  
2 to the owner a certificate of number that states the identifying number awarded to the  
3 boat, the name and address of the owner, the state of principal use, the normal use of  
4 the boat, the description of the boat, the manufacturer's hull identification number if  
5 one exists, make, year, length, type of hull material, type of propulsion and type of  
6 fuel, the issue date, and the expiration date of the certificate of number. The  
7 certificate of number must be wallet size.

8 (b) The department shall issue a set of validation decals bearing the year in  
9 which the certificate of number expires. The year shall also be indicated by the color  
10 blue, international orange, green, or red, in rotation in the order stated, beginning with  
11 international orange for stickers that expire in 1998. A validation decal must be a  
12 square approximately three inches on each side.

13 **Sec. 05.25.430. EXPIRATION OF CERTIFICATE OF NUMBER; RENEWAL**  
14 **OF CERTIFICATE AND DECALS. (a)** A certificate of number expires three years  
15 after the last day of the month in which the certificate is issued.

16 (b) The department may require the surrender of the expired certificate of  
17 number before issuing a new certificate of number.

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

20 (d) An application for renewal of a certificate of number shall be made in the  
21 same manner as provided in AS 05.25.410. The application shall be accompanied by  
22 the fee required under AS 05.25.420. The department shall renew certificates of  
23 number and issue validation decals in the same manner as provided in AS 05.25.425.

24 **Sec. 05.25.435. VALIDITY OF CERTIFICATE OF NUMBER. A certificate**  
25 **of number issued under this chapter is invalid if**

- 26 (1) the boat is subsequently documented or required to be documented;  
27 (2) the boat is sold, destroyed, or abandoned;  
28 (3) the applicant supplies false information in the application for the  
29 certificate;  
30 (4) the fees for issuance or renewal of the certificate are not paid;  
31 (5) 60 days have elapsed since the boat ceased to be used principally

1 in the state; or

2 (6) the owner, through legal process, involuntarily loses the ownership  
3 interest in the boat for which the certificate is issued.

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

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

10 (2) the theft or recovery of the boat;

11 (3) the destruction of the certificate of number; or

12 (4) an event described in AS 05.25.435.

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

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

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

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

20 (3) a boat, other than a recreational type public boat, owned and  
21 operated by the United States or an entity or political subdivision of the United States,  
22 or owned and operated for government purposes by a state or an entity or political  
23 subdivision of a state;

24 (4) a ship's lifeboat;

25 (5) a boat belonging to a class of boats that has been exempted from  
26 the provisions of AS 05.25.400 - 05.25.440 by the department under AS 05.25.910;

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

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

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

2 **ARTICLE 4. GENERAL PROVISIONS.**

3 **Sec. 05.25.900. ACCOUNTING AND DISPOSITION OF FEES.** The  
4 commissioner of administration shall separately account for fees collected under this  
5 chapter that the department deposits in the general fund. The annual estimated balance  
6 in the account may be used by the legislature to make appropriations to the department  
7 to carry out the purposes of this chapter.

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

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

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

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

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

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

27 **Sec. 05.25.990. DEFINITIONS.** In this chapter, unless the context requires  
28 otherwise,

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

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

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

6 (4) "dealer" means a person who engages wholly or in part in the  
7 business of buying, selling, or exchanging boats, either outright or on conditional sale,  
8 bailment lease, chattel mortgage, or otherwise;

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

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

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

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, but does not  
15 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) "state of principal use" means the state on whose water a boat is  
21 used or is to be used during most of a calendar year;

22 (12) "state water" means water within the territorial limits of the state  
23 whether navigable or nonnavigable.

24 \* Sec. 2. AS 05.25.010, 05.25.012, 05.25.020, 05.25.030, 05.25.040, 05.25.050, 05.25.060,  
25 05.25.070, 05.25.080, 05.25.090, and 05.25.100 are repealed.

26 \* Sec. 3. This Act takes effect January 1, 1995.