

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 449
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION**

BY REPRESENTATIVE HOFFMAN

Introduced: 2/14/94

Referred: Resources, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

**1 "An Act relating to boating safety, boating accidents, and boat numbering;
2 amending Alaska Rule of Evidence 803(8); and 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 (c) The operator of a watercraft on the water of the state may not transport a

1 person under 13 years of age on the deck of a watercraft or in an open watercraft
2 unless the person is wearing a United States Coast Guard approved Type I, Type II,
3 or Type III flotation device.

4 (d) A person may not operate a watercraft on the water of the state to tow a
5 person under 13 years of age on water skis, a surfboard, or similar device unless the
6 person being towed is wearing a United States Coast Guard approved Type I, Type II,
7 or Type III personal flotation device.

8 (e) In this section, "personal flotation device" does not include a life belt or
9 life ring.

10 Sec. 05.25.290. APPLICATION OF AS 05.25.210 - 05.25.290;
11 REGULATIONS. (a) AS 05.25.210 - 05.25.290 apply to boats operated in state
12 water, except when inconsistent with applicable federal law, in which case federal law
13 prevails.

14 (b) The commissioner shall adopt regulations to implement AS 05.25.210 -
15 05.25.290. Each regulation must specify those waters of the state to which the
16 regulation applies. A regulation may not apply to water where an inconsistent federal
17 law prevails.

18 ARTICLE 2. BOATING ACCIDENTS.

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

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

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

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

29 (B) the owner or a surviving occupant of the other boat or the
30 owner of the damaged property; or

31 (C) another appropriate person; and

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

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

8 Sec. 05.25.310. NOTICE OF ACCIDENT RESULTING IN DEATH OR
9 DISAPPEARANCE. (a) When a person dies as a result of an accident that involves
10 a boat or its equipment or a person disappears from a boat, the operator shall, without
11 delay, by the quickest means available, notify the department of the

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

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

22 Sec. 05.25.320. ACCIDENT REPORT REQUIRED. (a) The operator of a
23 boat involved in an accident, or the owner of the boat if the operator cannot submit
24 a report, shall submit a report of the accident to the department if the accident results
25 in

- 26 (1) the death of a person;
27 (2) injury to a person requiring medical treatment beyond first aid;
28 (3) the disappearance from the boat of a person under circumstances
29 indicating death or injury;
30 (4) damage to the boat or other property in an aggregate amount of
31 more than \$200; or

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(5) complete loss of the boat.

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

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

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

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

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

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

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

Sec. 05.25.330. CONFIDENTIALITY OF ACCIDENT REPORT. (a) An accident report submitted to the department is without prejudice to the individual reporting and is solely for the confidential use of administrative and enforcement agencies.

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

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

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

(3) the name of each company insuring the owner or operator of each

1 boat involved in the accident; and

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

3 (c) A report filed under AS 05.25.320 - 05.25.330 may not be used as
4 evidence in a civil action or criminal prosecution arising out of the accident. The
5 department shall furnish, upon demand of a person who has or claims to have made
6 a report under AS 05.25.320 - 05.25.330 or upon order of a court, a certificate stating
7 whether a specified accident report has been filed with the department. The certificate
8 is admissible in a civil action or criminal prosecution solely to prove compliance or
9 failure to comply with the reporting requirement.

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

13 (e) In response to a request from an authorized official or agency of the United
14 States, or in compliance with United States Coast Guard regulations or a requirement
15 under 46 U.S.C. 6101 - 6103, the department shall provide information compiled or
16 otherwise available to the department from the accident reports required under
17 AS 05.25.320 - 05.25.330.

18 Sec. 05.25.340. DEATH CERTIFICATES. Within 60 days after the death
19 occurs, the state registrar of vital statistics shall forward to the department a copy of
20 the death certificate for each death resulting from a boat accident.

21 Sec. 05.25.350. APPLICATION OF AS 05.25.300 - 05.25.340. (a) The
22 provisions of AS 05.25.300 - 05.25.340 apply to all boats operated in state water,
23 except

24 (1) as provided in this section or AS 05.25.900;

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

27 (b) The provisions of AS 05.25.300 - 05.25.340 do not apply to

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

30 (2) foreign boats operated temporarily in state water only for
31 nonrecreational purposes;

1 ~~... of the United States~~ (3) a boat owned and operated for government purposes by the United
2 ~~States or by an entity of the United States; or~~

3 (4) a ship's lifeboat.

4 **ARTICLE 3. NUMBERING AND REGISTRATION.**

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

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

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

10 (2) certificate of number is

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

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

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

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

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

25 **Sec. 05.25.410. PLACEMENT OF IDENTIFYING NUMBER AND DECAL.**

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

29 (b) An identifying number shall be painted on or permanently attached to each
30 side of the forward half of the vessel in a position that is clearly visible for
31 identification. Each number must read from left to right and must be in plain vertical

1 block characters of good proportion not less than three inches in height. The number
2 must be of a color that contrasts with the color of the background and shall be
3 maintained so that it is clearly visible and legible. Each number must have spaces or
4 hyphens that are equal to the width of a letter other than "I" or a number other than
5 "1" between the letter and number groupings.

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

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

12 (e) A validation decal issued under AS 05.25.450 shall be placed three inches
13 to the rear of the identifying number.

14 **Sec. 05.25.420. APPLICATION FOR CERTIFICATE OF NUMBER.** (a) The
15 owner of a boat that is operated principally on state water, or a dealer who wishes to
16 demonstrate one or more boats on state water, shall apply to the department for a
17 certificate of number. The application must include

- 18 (1) the true name of the owner or dealer;
19 (2) the residence or business address of the owner or dealer;
20 (3) a description of the boat, or in the case of a dealer a description of
21 the lengths and types of boats, to be operated under the certificate; and
22 (4) other information required by the department or by United States
23 Coast Guard regulations.

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

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

28 **Sec. 05.25.430. APPLICATION BY OWNER HAVING NUMBER**
29 **AWARDED BY FEDERAL GOVERNMENT OR ANOTHER STATE.** The owner
30 of a boat having a valid certificate of number that has been issued under federal law
31 or a federally approved numbering system of another state shall apply to the

1 department for an identifying number within 10 days after the expiration of the
2 applicable reciprocity period provided in AS 05.25.490(a)(6) or (7).

3 Sec. 05.25.440. CERTIFICATE OF NUMBER FEES. (a) The commissioner
4 shall adopt regulations establishing fees for original, renewal, and duplicate certificates
5 of number, and for dealer demonstration certificates of number.

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

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

10 Sec. 05.25.450. ISSUANCE OF CERTIFICATE OF NUMBER AND
11 VALIDATION DECALS. (a) If the application is in order, the department shall issue
12 to the owner a certificate of number that states the identifying number awarded to the
13 boat, the name and address of the owner, the state of principal use, the normal use of
14 the boat, the description of the boat, the manufacturer's hull identification number if
15 one exists, make, year, length, type of hull material, type of propulsion and type of
16 fuel, the issue date, and the expiration date of the certificate of number. The
17 certificate of number must be wallet size.

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

23 Sec. 05.25.460. EXPIRATION OF CERTIFICATE OF NUMBER; RENEWAL
24 OF CERTIFICATE AND DECALS. (a) A certificate of number expires three years
25 after the last day of the month in which the certificate is issued.

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

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

30 (d) An application for renewal of a certificate of number shall be made in the
31 same manner as provided in AS 05.25.420. The application shall be accompanied by

1 the fee required under AS 05.25.440. The department shall renew certificates of
2 number and issue validation decals in the same manner as provided in AS 05.25.450.

3 Sec. 05.25.470. VALIDITY OF CERTIFICATE OF NUMBER. A certificate
4 of number issued under this chapter is invalid if

- 5 (1) the boat is subsequently documented or required to be documented;
6 (2) the boat is sold, destroyed, or abandoned;
7 (3) the applicant supplies false information in the application for the
8 certificate;
9 (4) the fees for issuance or renewal of the certificate are not paid;
10 (5) 60 days have elapsed since the boat ceased to be used principally
11 in the state; or
12 (6) the owner, through legal process, involuntarily loses the ownership
13 interest in the boat for which the certificate is issued.

14 Sec. 05.25.480. REPORT OF TRANSFER, ABANDONMENT, OR
15 DESTRUCTION OF BOAT, OR CHANGE OF ADDRESS OF OWNER. (a) The
16 owner of a boat for which a certificate of number has been issued under this chapter
17 shall notify the department of any of the following events within 15 days after the
18 event occurs:

- 19 (1) the transfer of all or a part of the ownership interest in the boat;
20 (2) the theft or recovery of the boat;
21 (3) the destruction of the certificate of number; or
22 (4) an event described in AS 05.25.470.

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

26 Sec. 05.25.490. EXEMPTIONS FROM NUMBERING AND
27 REGISTRATION. (a) The following classes of boats are exempt from the provisions
28 of AS 05.25.400 - 05.25.480:

- 29 (1) a boat that is documented by the United States Coast Guard;
30 (2) a foreign boat operated only temporarily in state water;
31 (3) a boat, other than a recreational type public boat, owned and

1 operated by the United States or an entity or political subdivision of the United States,
2 or owned and operated for government purposes by a state or an entity or political
3 subdivision of a state;

4 (4) a ship's lifeboat;

5 (5) a boat belonging to a class of boats that has been exempted from
6 the provisions of AS 05.25.400 - 05.25.480 by the department under (b) of this section
7 or AS 05.25.900;

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

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

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

14 (b) The commissioner may exempt a class of boats from the numbering and
15 registration requirements of AS 05.25.400 - 05.25.480 if the

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

18 (2) United States Secretary of Transportation has exempted that class
19 of boats from numbering.

20 ARTICLE 4. GENERAL PROVISIONS.

21 Sec. 05.25.900. EXEMPTIONS BY COMMISSIONER. Except when
22 inconsistent with federal laws and regulations, the commissioner may exempt a class
23 of boats from a provision of this chapter if the commissioner determines that the safety
24 of persons and property will not be materially promoted by applying that provision to
25 the class of boats.

26 Sec. 05.25.910. ENFORCEMENT. A peace officer may enforce this chapter
27 and in the exercise of enforcement may stop and board boats that the officer
28 reasonably believes are or may be subject to this chapter.

29 Sec. 05.25.920. PENALTIES. (a) Except as provided in (b) of this section,
30 a person who violates a provision of this chapter is guilty of a misdemeanor and is
31 punishable by a fine of not more than \$500, or by imprisonment of not more than six

1 months, or by both.

2 (b) A person who violates AS 05.25.230(c) or (d) is guilty of a violation, as
3 defined in AS 11.81.900, and may be fined up to \$50.

4 Sec. 05.25.930. REGULATIONS. The commissioner shall adopt regulations
5 under AS 44.62 (Administrative Procedure Act) that are necessary for the
6 implementation of this chapter.

7 Sec. 05.25.990. DEFINITIONS. In this chapter, unless the context requires
8 otherwise,

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

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

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

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

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

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

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

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

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

28 (10) "passenger" means a person on board a boat who is not the master,
29 operator, crew member, or other person engaged in a capacity in the business of the
30 boat;

31 (11) "state of principal use" means the state on whose water a boat is

1 used or is to be used during most of a calendar year;

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

4 * Sec. 2. AS 05.25.330, added by sec. 1 of this Act, amends Alaska Rule of Evidence
5 803(8) by excluding boat accident reports required under AS 05.25.320 from admission as
6 evidence in a civil or criminal proceeding.

7 * Sec. 3. AS 05.25.010, 05.25.012, 05.25.020, 05.25.030, 05.25.040, 05.25.050, 05.25.060,
8 05.25.070, 05.25.080, 05.25.090, and 05.25.100 are repealed.

9 * Sec. 4. This Act takes effect January 1, 1995.