

HB

301

<TARGET><BILL>HB 301</BILL><SUBJECT>HB
301</SUBJECT><COMM>HFIN27</COMM></TARGET>

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version HB 301
Fiscal Note Number 1
(H) Publish Date 2/24/12

Identifier (file name) HB301-DNR-PM-2-17-12 Dept. Affected Department of Natural Resources
Title Sunset of Boating Regulation Appropriation Parks and Outdoor Recreation
Allocation Parks Management and Access
Sponsor Rep. Austerman
Requester House Labor & Commerce OMB Component Number 3001

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services		490.0	490.0	490.0	490.0	490.0	490.0	490.0
Travel		70.0	70.0	70.0	70.0	70.0	70.0	70.0
Services		760.0	760.0	760.0	760.0	760.0	760.0	760.0
Commodities		130.0	130.0	130.0	130.0	130.0	130.0	130.0
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	1,450.0	1,450.0	1,450.0	1,450.0	1,450.0	1,450.0	1,450.0

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts		1,250.0	1,250.0	1,250.0	1,250.0	1,250.0	1,250.0
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1216	Boat Rcpts (Other)		200.0	200.0	200.0	200.0	200.0	200.0
TOTAL		0.0	1,450.0	1,450.0	1,450.0	1,450.0	1,450.0	1,450.0

POSITIONS							
Full-time		4	4	4	4	4	4
Part-time		2	2	2	2	2	2
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial Version

Prepared by Ben Ellis, Director
Division Division of Parks and Outdoor Recreation
Approved by Daniel S. Sullivan, Commissioner
Department of Natural Resources

Phone 907-269-8701
Date/Time 2/17/12 5:00 PM
Date 2/17/2012

FISCAL NOTE #1

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB 301

Analysis

Section 1 of this bill repeals the sunset date provision contained in ch. 28, SLA 2000 of the Alaska Boating Safety Act (AS.05.25) thereby allowing the Alaska Boating Safety Program to continue. If the program sunsets, state boating education programs will end. Furthermore, Alaska's state boating laws will no longer be consistent with other states or with federal law and boat registration fees paid by Alaskans will go to the U.S. Treasury rather than remain in the state.

No additional fiscal impact is associated with this bill as the project is currently included in the governor's FY13 operating budget. The program is funded primarily by a federal grant and some general fund receipts from boat registration fees. The fiscal impacts for future years is estimated based on average Federal funding in previous years.

CS FOR HOUSE BILL NO. 301(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES AUSTERMAN, Chenault, Gardner, Peggy Wilson, Foster, Joule, Edgmon, Kerttula, Olson, Herron

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to enforcement of boating safety statutes; amending the termination**
2 **date of certain statutes relating to the use, operation, and regulation of boats, a uniform**
3 **state waterway marking system, and civil liability for boat owners; providing for an**
4 **effective date by amending the effective date of secs. 3, 5, 7, 9, 11, 14, 16, 18, 20, 23, 26,**
5 **and 27, ch. 28, SLA 2000, as amended; and providing for an effective date."**

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

7 *** Section 1.** AS 05.25.080 is amended to read:

8 **Sec. 05.25.080. Enforcement.** (a) The Department of Public Safety has
9 authority for enforcement of this chapter and the regulations adopted under this
10 chapter. Nothing in this chapter authorizes a department or board to enter into an
11 agreement with a department or agency of the federal government that cedes
12 state authority for the management of its waterways to the federal government.

13 (b) A peace officer, other than a person employed by the federal

1 **government**, may enforce this chapter and, in the exercise of enforcement, may stop
 2 and, if the peace officer has probable cause to believe a violation of this chapter has
 3 occurred, board watercraft subject to this chapter. A peace officer may issue a citation
 4 as provided in AS 12.25.180 [12.25.175 - 12.25.230] to a person who violates a
 5 provision of this chapter.

6 (c) A person employed by the Department of Natural Resources, or a person,
 7 **other than a person employed by the federal government**, authorized by the
 8 commissioner under AS 41.21.955(a), acting as a peace officer, may enforce this
 9 chapter and regulations adopted under this chapter only in units of the state park
 10 system.

11 * **Sec. 2.** AS 05.25.080, as repealed and reenacted by sec. 18, ch. 28, SLA 2000, and as
 12 amended by sec. 8, ch. 29, SLA 2010, is amended to read:

13 **Sec. 05.25.080. Enforcement.** A peace officer, **other than a person**
 14 **employed by the federal government**, may enforce this chapter and, in the exercise
 15 of enforcement, may stop and, if the peace officer has probable cause to believe a
 16 violation of this chapter has occurred, board watercraft subject to this chapter. A peace
 17 officer may issue a citation as provided in AS 12.25.180 [AS 12.25.175 - 12.25.230]
 18 to a person who violates a provision of this chapter.

19 * **Sec. 3.** Section 30, ch. 28, SLA 2000, as amended by sec. 3, ch. 34, SLA 2004, by sec. 1,
 20 ch. 19, SLA 2009, and by sec. 1, ch. 47, SLA 2010, is amended to read:

21 Sec. 30. Sections 3, 5, 7, 9, 11, 14, 16, 18, 20, 23, 26, and 27 of this Act take
 22 effect [ON THE EARLIER OF THE FOLLOWING DATES:

23 (1) JULY 1, 2013; OR

24 (2)] 90 days after the date the chair of the Alaska Legislative Council
 25 notifies the revisor of statutes that in the previous state fiscal year the state did not
 26 receive and does not anticipate receiving federal funding for a statewide boating and
 27 safety education program; the director of the division of legislative finance shall notify
 28 the chair of the Alaska Legislative Council when the state, in the previous fiscal year,
 29 did not receive federal funding for a statewide boating and safety program; the chair of
 30 the Alaska Legislative Council may not give the notice described in this **section**
 31 [PARAGRAPH] unless the notice is approved by a vote of a majority of the members

1 of the Alaska Legislative Council.

2 * **Sec. 4.** Section 2 of this Act takes effect on the date that sec. 18, ch. 28, SLA 2000, as
3 amended by sec. 8, ch. 29, SLA 2010, takes effect under sec. 30, ch. 28, SLA 2000, as
4 amended by sec. 3, ch. 34, SLA 2004, by sec. 1, ch. 19, SLA 2009, by sec. 1, ch. 47, SLA
5 2010, and by sec. 3 of this Act.

6 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect immediately under
7 AS 01.10.070(c).

Adopted
3/15/12

27-LS1152\M
Martin
3/13/12

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1 **government**, may enforce this chapter and, in the exercise of enforcement, may stop
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4 amended by sec. 3, ch. 34, SLA 2004, by sec. 1, ch. 19, SLA 2009, by sec. 1, ch. 47, SLA
5 2010, and by sec. 3 of this Act.

6 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect immediately under
7 AS 01.10.070(c).

Sec. 16.05.935. Restrictions on cooperation with federal government.

(a) In recognition of the fact that the state has not assented to federal control of fish and game in Glacier Bay National Park and Preserve or the navigable waters within or adjoining the park and preserve, that the power to control the management of fish and game within the boundaries of the state is an incident of state sovereignty, and that the federal government cannot commandeer the lawmaking processes of the states to compel the state to enact and enforce a federal regulatory program, an agency, employee, or agent of the state may not expend funds to adopt or enforce the implementation of the federal regulatory program or a part of the program for control of fish and game in the park and preserve or the navigable waters within or adjoining the park and preserve that is in conflict with a state statute or regulation regarding management of fish or game within the park or preserve. This subsection does not prohibit an agency, employee, or agent of the state from

(1) taking action necessary to protect life or property;

(2) commenting on proposed federal statutes or regulations;

(3) collecting data relating to claims of economic harm arising from the closure of the park and preserve to commercial fishing; or

(4) participating in or cooperating with a federal program established under 16 U.S.C. 703 - 712 (Migratory Bird Treaty Act); 16 U.S.C. 773 - 773k (Northern Pacific Halibut Act of 1982); 16 U.S.C. 1361 - 1421h (Marine Mammal Protection Act); 16 U.S.C. 1531 - 1544 (Endangered Species Act); 16 U.S.C. 1801 - 1883 (Magnuson-Stevens Fishery Conservation and Management Act); 16 U.S.C. 3631 - 3644 (Pacific Salmon Treaty Act of 1985).

(b) Nothing in this title authorizes the department or a board to enter into an agreement with a department or agency of the federal government that cedes state authority for the management of fish or game in the state to the federal government. In this subsection, "management" means the regulation of the method, manner, means, time, or place of taking of fish or game or the regulation of the amount of fish or game that may be taken



Representative Alan Austerman
House Majority Leader

Alaska State Legislature

Sponsor Statement for House Bill 301: An act amending the termination date of the statewide boating safety and education program

House Bill 301 repeals the sunset dates of the Statewide Boating Safety and Education Program. Through this program the State of Alaska works in close cooperation with the U.S. Coast Guard, U.S. Coast Guard Auxiliary, and other partners to provide national award winning programs such as the popular *Kids Don't Float* life jacket loaner program, nationally approved boating courses, instructor training, video production, and numerous publications and instructor tools. Alaska's non-commercial boating fatalities have dropped more than 20% since state efforts began, and at least 19 Alaskan children are alive today thanks to a *Kids Don't Float* life jacket. The program has been repeatedly recognized for excellence, including the U.S. Coast Guard's Meritorious Public Service Award.

Between 1987 and 2000 Alaska was the only state without a comprehensive recreational boating safety program, even though Alaska had one of the highest fatality rates in the nation. During the same time, Alaska's share of the federal funding available to the states for boating safety programs was being distributed to the others states. Following 11 attempts at passage, in May of 2000, HB 108, the *Alaska Boating Safety Act* (AS 05.25) was signed into law.

The Act did four things:

1. It brought Alaska's state boating laws into uniformity with federal laws.
2. It assigned the state's boating regulatory functions to appropriate state agencies (DNR as the lead agency, DPS for law enforcement and DMV for boat registration).
3. It qualified Alaska to receive the state's share of federal grant funds.
4. It established Alaska's boating education program.

The 21st Legislature originally added two 'sunset' provisions to repeal the *Alaska Boating Safety Act* in the event the state did not receive the anticipated federal funds. The first sunset would take effect and the Boating Safety program would terminate if federal funds were not appropriated. The second sunset terminated the program by date, currently July 1, 2013.

The program's efforts have proved to significantly reduce Alaska's boating fatality rate and the sunset provisions of the *Alaska Boating Safety Act* should be repealed on the merit of its success.

Alaska Boating Safety Program Funding History		
Federal Fiscal Year	Federal Grant	DMV Receipts
FFY1999	\$ 329,213.00	
FFY2000	\$ 385,091.00	
FFY2001	\$ 438,759.00	
FFY2002	\$ 435,194.00	
FFY2003	\$ 490,104.00	
FFY2004	\$ 459,675.00	
FFY2005	\$ 478,242.00	
FFY2006	\$ 787,898.00	\$ 200,000.00
FFY2007	\$ 1,057,425.00	\$ 200,000.00
FFY2008	\$ 1,064,878.00	\$ 200,000.00
FFY2009	\$ 1,113,068.00	\$ 200,000.00
FFY2010	\$ 1,047,746.00	\$ 200,000.00
FFY2011	\$ 1,039,646.00	\$ 200,000.00
FFY2012*	\$ 913,385.00	\$ 200,000.00

Notes:

1. The Alaska Office of Boating Safety was established by Department Order in 1998, but did not meet federal grant eligibility requirements until 1999.
2. Matching funds required for the federal grant currently come from the DMV receipts received by the Program (above) and by identifying eligible state expenditures of several other state agencies.
3. FFY2012* grant amount is an estimate.