ENROLLED SENATE
BILL NO. 1215

By: Easley of the Senate

and

Hutchison, Staggs, Langmacher and Bonny of the House

An Act relating to boating; amending 63 O.S. 1991, Sections 4013, as amended by Section 9, Chapter 284, O.S.L. 1992, and 4210, as amended by Section 43, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1995, Sections 4013 and 4210), which relate to the Oklahoma Vessel and Motor Registration Act and the Oklahoma Boating Safety Regulation Act; providing for motor license agents to perfect certain liens; prohibiting a person from leasing or permitting another person to operate a vessel while under the influence; prohibiting boating at excess speed on certain waters; prohibiting operation of vessel within certain distance of another vessel at certain speeds; setting certain age limit for operating personal watercraft; providing certain nighttime speed limit; stating penalty; prohibiting the operation of a vessel under the influence of certain substances; defining terms; providing for implied consent to certain tests; providing evidence of refusal to submit to certain tests admissible in certain proceedings; stating penalties; authorizing certain bail procedures; providing penalty for failure to comply with orders or directives of lake patrolmen or water safety enforcement officers; stating penalty; creating the Grand River Dam Authority Lakes Advisory Commission; stating purpose; stating membership; stating terms; providing for officers; authorizing certain travel reimbursement; requiring certain annual report; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 4013, as amended by Section 9, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1995, Section 4013), is amended to read as follows:

Section 4013. A. 1. Except for a security interest in vessels or motors held by a dealer for sale or lease, a security interest, as defined in Section 1-201 of Title 12A of the Oklahoma Statutes, in a vessel or motor as to which a certificate of title may be

properly issued by the Oklahoma Tax Commission shall be perfected only when a lien entry form prescribed by the Commission, and the existing certificate of title, if any, or application for a certificate of title and manufacturer's certificate of origin or other identification number containing the name and address of the secured party and the date of the security agreement and the required fee are delivered to the Commission or to a motor license agent. The filing and duration of perfection of a security interest, pursuant to the provisions of Title 12A of the Oklahoma Statutes, including, but not limited to, Section 9-302 of Title 12A of the Oklahoma Statutes, shall not be applicable to perfection of security interests in vessels or motors as to which a certificate of title may be properly issued by the Commission, except as to vessels or motors held by a dealer for sale or lease and except as provided in subsection D of this section. In all other respects Title 12A of the Oklahoma Statutes shall be applicable to such security interests in vessels or motors as to which a certificate of title may be properly issued by the Commission.

2. Whenever a person creates a security interest in a vessel or motor, such person shall surrender to the secured party the certificate of title or the signed application for a new certificate of title, on the form prescribed by the Commission, and the manufacturer's certificate of origin or other identification number. The secured party shall deliver the lien entry form and the required lien filing fee within ~~fifteen (15)~~ twenty (20) calendar days as provided hereafter with certificate of title or the application for certificate of title and the manufacturer's certificate of origin or other identification number to the Commission or to a motor license agent. If the lien entry form, the lien filing fee and the certificate of title or application for certificate of title and the manufacturer's certificate of origin or other identification number are delivered to the Commission or to a motor license agent within ~~fifteen (15)~~ twenty (20) calendar days after the date of the lien entry form, perfection of the security interest shall begin from the date of the execution of the lien entry form, but, otherwise, perfection of the security interest shall begin from the date of the delivery to the Commission or to a motor license agent. When a vessel or motor title is presented to a motor license agent for transferring or registering and the documents reflect a lienholder, the motor license agent shall perfect the lien as provided for in subsection G of Section 1105 of Title 47 of the Oklahoma Statutes.

3. Upon the receipt of the lien entry form and the required fees with either the certificate of title or an application for certificate of title and manufacturer's certificate of origin or other identification number, a motor license agent shall, by placement of a clearly distinguishing mark, record the date and number shown in a conspicuous place, on each of these instruments.

4. The certificate of title or the application for certificate of title and manufacturer's certificate of origin or other identification number with the record of the date of receipt clearly marked thereon shall be returned to the debtor together with a notice that the debtor is required to register and pay all additional fees and taxes due within thirty (30) calendar days from the date of purchase of said vessel or motor.

5. Any person creating a security interest in a vessel or motor that has been previously registered in the debtor's name and on which all taxes due the state have been paid shall surrender the certificate of ownership to the secured party. The secured party shall have the duty to record the security interest as provided in this section and shall, at the same time, obtain a new certificate

of title which shall show the secured interest on the face of such certificate of title.

6. The lien entry form with the date and assigned number thereof clearly marked thereon shall be returned to the secured party. If the lien entry form is received and authenticated, as herein provided, by a motor license agent, such agent shall make a report thereof to the Commission upon the forms and in the manner as may be prescribed by the Commission.

7. The Commission shall have the duty to record the lien upon the face of the certificate of title issued at the time of registering and paying all fees and taxes due on such vessel or motor.

B. 1. A secured party shall, within seven (7) business days after the satisfaction of such security interest, furnish directly or by mail a release of a security interest to the Commission and mail a copy thereof to the last-known address of the debtor. If the security interest has been satisfied by payment from a licensed used boat dealer to whom the used vessel or motor has been transferred, the secured party shall also, within seven (7) business days after such satisfaction, mail a certified copy of copy number one of the release of security interest to such dealer. If the secured party fails to furnish such release as herein required, the secured party shall be liable to the debtor for a penalty of One Hundred Dollars ($100.00) and, in addition, any loss caused to the debtor by such failure.

2. Upon release of a security interest the owner may obtain a new certificate of title omitting reference to the security interest, by submitting to the Commission or to a motor license agent:

a. a release signed by the secured party, an application for new certificate of title and the proper fees, or

b. by submitting to the Commission or the motor license agent an affidavit, supported by such documentation as the Commission may require, by the owner on a form prescribed by the Commission stating that the security interest has been satisfied and stating the reasons why a release cannot be obtained, an application for a new certificate of title and the proper fees.

Upon receiving such affidavit that the security interest has been satisfied, the Commission shall issue a new certificate of title eliminating the satisfied security interest and the name and address of the secured parties who have been paid and satisfied.

The words "security interest" when used in the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, do not include liens dependent upon possession.

C. The Commission shall file and index certificates of title so that at all times it will be possible to trace a certificate of title to the vessel or motor designated therein, identify the lien entry form, and the names and addresses of secured parties, or their assignees, so that all or any part of such information may be made readily available to those who make legitimate inquiry of the Commission as to the existence or nonexistence of security interest in the vessel or motor.

D. Any security interest in a vessel or motor properly perfected prior to the effective date of this act may be continued as to its effectiveness or duration as provided by subsection (3) of Section 9-401 and subsection (3) of Section 9-403 of Title 12A of the Oklahoma Statutes, or may be terminated, assigned or released as provided by Sections 9-404, 9-405 and 9-406 of Title 12A of the Oklahoma Statutes, as fully as if this section had not been enacted,

or, at the option of the secured party, may also be perfected under this section, and, if so perfected, the time of perfection under this section shall be the date said security interest was originally perfected under the prior law. Upon request of the secured party, the debtor or any other holder of the certificate of title shall surrender said certificate of title to the secured party and shall do such other acts as may be required to perfect said security interest under this section.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 4210, as amended by Section 43, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1995, Section 4210), is amended to read as follows:

Section 4210. A. No person shall operate, manipulate or give permission to any person to operate ~~any vessel~~ or manipulate ~~or give permission to manipulate~~ any parasails, water skis, surfboard, or similar device, or any vessel in a reckless or negligent manner so as to endanger the life or property of any person.

B. No person shall ~~operate or~~ lease or otherwise give permission to another person to operate any vessel on any waters of this state, except privately owned waters, while the operator is under the influence of alcohol or any substance included in the Uniform Controlled Dangerous Substances Act, Section ~~2-104~~ 2-101 et seq. of this title, or any combination of alcohol and such substance.

C. Upon the immediate approach of an authorized emergency vessel making use of an audible or a visual signal or a combination thereof, the operator of every other vessel shall immediately stop his or her vessel whenever or wherever practical or otherwise yield the right-of-way until such authorized emergency vessel has passed, except when otherwise directed by a duly authorized peace officer of this state.

D. No person shall overload or give permission to overload a vessel with persons or gear so as to exceed the posted capacity plate or to exceed United States Coast Guard standards.

E. No person shall operate, drive or be in actual physical control of any vessel on any waters of this state, except privately owned waters, at speeds in excess of the speed limits established for those waters.

F. No person shall operate on the waters of this state, except privately owned waters, any vessel, including personal watercraft, within fifty (50) feet in proximity to another vessel when running at speeds of over ten (10) miles per hour; provided, this prohibition shall not apply to vessels operating in sanctioned events.

G. No person under twelve (12) years of age may solely operate a personal watercraft on any waters of this state, except privately owned waters.

H. Any violation of the provisions of this section shall constitute a ~~negligent act in the operation of the vessel or motor or parasails~~ misdemeanor and shall be punishable by a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Fifty Dollars ($250.00).

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4210A of Title 63, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to operate or be in actual physical control of a vessel upon the waters of this state, except privately owned waters, who:

1. Has a blood or breath alcohol concentration of ten-hundredths (0.10) or more at the time of a test of the person's blood or breath;

2. Is under the influence of any other intoxicating substance to a degree which renders such person incapable of safely operating a vessel upon the waters of this state, as evidenced by any detectable amount above a therapeutic level when tested; or

3. Is under the influence of alcohol and any other intoxicating substance to a degree which renders such person incapable of safely operating a vessel upon the waters of this state, as evidenced by any detectable amount above a therapeutic level when tested.

As used in this section, the term "other intoxicating substance" shall mean any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act or any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

B. 1. Any person operating a vessel upon the waters of this state, except privately owned waters, shall be deemed to have given consent to a test or tests of such person's blood, breath, saliva or urine for the purpose of determining the presence and concentration of alcohol or any other intoxicating substance. Such tests shall be performed within two (2) hours of an arrest and in the same manner as provided for in Section 752 of Title 47 of the Oklahoma Statutes.

2. Evidence that the person has refused to submit to a test or tests as required by this section shall be admissible upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed in violation of the provisions of this section.

3. Any person refusing to submit to such test or tests shall be in violation of this section and subject to the fines provided for herein.

C. 1. Any person convicted of a violation of this section shall be guilty of a misdemeanor and fined in an amount not to exceed One Thousand Dollars ($1,000.00). Any second or subsequent conviction shall be punishable by a fine in an amount of not less than One Thousand Dollars ($1,000.00), nor more than Two Thousand Five Hundred Dollars ($2,500.00).

2. A person arrested by a law enforcement officer for a violation of this section may be allowed to post a cash bail in an amount set by the arresting law enforcement officer not to exceed the maximum fine provided by this section, or deposit a valid license to operate a motor vehicle in exchange for an official receipt issued by the arresting officer as provided for in Section 1111 et seq. of Title 22 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4219 of Title 63, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any person to operate any vessel upon the waters of this state between the hours of one-half hour after sunset and one-half hour before sunrise at any speed in excess of thirty-five (35) miles per hour. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punishable by a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Fifty Dollars ($250.00).

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4221 of Title 63, unless there is created a duplication in numbering, reads as follows:

No person shall willfully fail or refuse to comply with any lawful order or directive of any lake patrolman or water safety enforcement officer while in the performance of his or her duty of enforcing the provisions of Title 63 or Title 21 of the Oklahoma Statutes. Failure to comply will constitute a misdemeanor

punishable by a fine not to exceed Two Hundred Fifty Dollars ($250.00).

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4230 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Grand River Dam Authority Lakes Advisory Commission. The purpose of the advisory commission is to provide a forum for interested persons to address issues related to the recreational use and economic development of the lakes under the administration of the Grand River Dam Authority on behalf of all lake enthusiasts, property owners and business persons who use, live or work in or around the lakes.

B. The Commission shall consist of nineteen (19) members including three members of the Oklahoma State Senate, appointed by the President Pro Tempore of the Senate; three members of the House of Representatives, appointed by the Speaker of the House of Representatives; and a representative of the Grand River Dam Authority and a representative of the Oklahoma Department of Tourism and Recreation, appointed by the Governor. In addition, the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall make appointments as follows:

1. The Governor shall appoint:
   a. a representative of a local business,
   b. a representative of a local Chamber of Commerce or other business association, and
   c. a representative of a law enforcement agency;
2. The President Pro Tempore of the Senate shall appoint:
   a. a representative of a local business, property or recreational association,
   b. a residential property owner,
   c. a representative of a business located on waterfront property with water access by recreational boaters, and
   d. a representative of the Grand Lake Association; and
3. The Speaker of the House of Representatives shall appoint:
   a. a representative of a business located in a water recreation area, but not located on waterfront property,
   b. a residential property owner,
   c. a representative of a municipal or county government, and
   d. a representative of the Lake Hudson Association.

C. Members of the Commission shall serve for a term of four (4) years. Any vacancy in the appointive membership of the Commission shall be filled for the unexpired term in the same manner as the original appointment.

D. Members of the Commission shall serve without compensation, but may be provided actual and necessary travel reimbursement by their appointing authority, according to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

E. At the first meeting of the Commission a chair and vice-chair shall be elected from among the membership to serve a term of one (1) year. The Chair shall be authorized to appoint other officers and committees as he or she deems necessary.

F. The first meeting of the Commission shall be called by the General Manager of the Grand River Dam Authority no later than September 1, 1996. Members of the Commission shall be appointed by their respective appointing authorities no later than August 15, 1996. Future meetings and their locations may be set by the Chair.

Staff support for the Commission shall be provided by the Grand River Dam Authority.

G. The Grand River Dam Authority Lakes Advisory Commission shall make recommendations regarding changes in Oklahoma statutes and agency rules as they deem necessary by a majority vote of the Commission's membership. The Commission shall file an annual report with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Grand River Dam Authority and the Department of Public Safety Lake Patrol Division no later than October 1 of each year which details any recommended changes to the Oklahoma statutes governing boat safety, lake management and economic development.

SECTION 7. This act shall become effective July 1, 1996.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 30th day of May, 1996.

President of the Senate

Passed the House of Representatives the 31st day of May, 1996.

Speaker of the House of Representatives