

SHORT TITLE: Public health and safety; authorizing certain boating speed limits; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1215

By: Easley

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Section 4210, as amended by Section 43, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1995, Section 4210), which relates to reckless or negligent operation of vessels; clarifying language; adding certain combined substance to prohibition; prohibiting operation of vessel in excess of established speed limit; amending 82 O.S. 1991, Section 862, which relates to powers of the Grand River Dam Authority; modifying language; modifying reference; authorizing establishment of speed limits on certain lakes; providing for enforcement of certain speed limits; and declaring an emergency.

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

SECTION 1. 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 ~~or~~, give permission 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 give permission 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. Any violation of the provisions of this section shall constitute a negligent act in the operation of the vessel or motor or parasails.

SECTION 2. AMENDATORY 82 O.S. 1991, Section 862, is amended to read as follows:

Section 862. The Grand River Dam Authority hereinafter called the district shall have and is hereby authorized to exercise the following powers, rights and privileges:

~~(a)~~ A. To control, store and preserve, within the boundaries of the district, the waters of Grand River and its tributaries, for any useful purpose, and to use, distribute and sell the same within the boundaries of the district; provided, however, that any municipal corporation within the area included within the jurisdiction of the ~~said~~ the Grand River Dam Authority shall be entitled to take water from the Grand River and any of its tributaries in any quantities that may be needed by such municipal corporation;

~~(b)~~ B. To develop and generate water power, electric power and electric energy, from whatever source, within the boundaries of the district; to acquire coal or other minerals to be used for the purposes of providing energy sources for electrical generating plants; to acquire or lease any and all railroad connections, equipment, rolling stock, trackage and otherwise, necessary to the transporting of coal and other minerals to generating plant sites within the district; and to buy, sell, resell, interchange and distribute electric power and energy in order to carry forward the business and functions of the district now or hereafter authorized by law and may enter into contracts for such purposes, such contracts to run for a period of not to exceed fifty (50) years except those contracts provided for in ~~paragraphs~~ ~~(f)~~ subsections F and ~~(g)~~ G of this section. All contracts may contain ~~such~~ reasonable provisions, limitations, qualifications, protective clauses and rights and obligations of purchase and sale, and ~~such~~ provisions for the dedication of the use of facilities and the construction of additional facilities to serve the load requirements of all the parties, as may be deemed advisable by the district, to safeguard the business and properties of all the parties to ~~such~~ the contracts, all within the limits of sound business judgment and practice, good conscience, and not contrary to the public policy of the state;

~~(c)~~ C. To prevent or aid in the prevention of damage to person or property from the waters of the Grand River and its tributaries;

~~(d)~~ D. To forest and reforest and to aid in the foresting and reforesting of the watershed area of the Grand River and its tributaries and to prevent and to aid in the prevention of soil erosion and floods within ~~said~~ the watershed area;

~~(e)~~ E. To acquire by purchase, lease, gift, or in any other manner, and to maintain, use and operate or to contract for the maintenance, use and operation of any and all property of any kind, real, personal, or mixed, or any interest therein, and to own, construct, operate and maintain any project or works in conjunction or jointly with, as tenants in common, any public or private corporation duly authorized and qualified to do business within this state including, but not limited to, rural electric cooperatives of the State of Oklahoma or the United States of America, or any department, subdivision or agency of the State of Oklahoma or the United States of America, or with any "public agency" as defined ~~under~~ by the Interlocal Cooperation Act, Sections 1001 through 1008 of Title 74 of the Oklahoma Statutes, within or without the boundaries of the district, necessary, incidental or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by the provisions of Section 861 et seq. of this act ~~title~~;

~~(f)~~ F. In addition to any other powers conferred, the district shall have power and authority to participate and enter into agreements with any public or private corporation duly authorized and qualified to do business within the State of Oklahoma including, but not limited to, rural electric cooperatives, ~~the state~~ State of Oklahoma or the United States of America or any department, subdivision or agency of ~~the~~ this state or the United States of America, or with any "public agency" as defined ~~under~~ by the Interlocal Cooperation Act, Sections 1001 through 1008 of Title 74 of the Oklahoma Statutes, for the purpose of planning, acquiring, financing, owning, operating and maintaining an undivided ownership of any steam, oil, gas, coal-fired, thermal, geothermal, solar, waste or refuse reclamation powered electric generating plant or

plants or any facilities of every kind necessary, incidental or convenient for the production, generation and transmission of electric power and energy including, but not limited to, any and all related transmission facilities, which shall be used as common facilities. The agreements shall provide that the district and any participants therein shall have the incidents of tenant in common to any plant or facility. ~~It~~ The agreements shall also ~~be provided in the agreements~~ provide that the district and any participant in the project shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof and shall own and control a like percentage of the electrical output thereof.

1. Each participant shall defray its own interest payments and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition and construction of any common facility, or any additions or betterments thereto. The agreement shall further provide a uniform method of determining and allocating operation and maintenance expenses of the common facility.

2. In carrying out the powers granted in this ~~section~~ subsection the district and each participant shall be severally liable only for its own acts and not jointly or severally liable for the acts, omissions or obligations of others. No money or property supplied by the district or any participant for the planning, financing, acquiring, constructing, operating or maintaining of any common plant or facility shall be credited or otherwise applied to the account of any other participant therein, nor shall the undivided share of the district or any participant therein be charged, directly or indirectly, with any debt or obligation of any

other participant or be subject to any lien as a result thereof. No action in connection with a common facility shall be binding upon the district except as expressly authorized and provided for in the participation agreement;

~~(g)~~ G. In addition to the powers conferred in ~~paragraph (f)~~ subsection F of this section, the district shall have power and authority to participate and enter into agreements with any public or private corporation duly authorized and qualified to do business within this state including, but not limited to, rural electric cooperatives, the State of Oklahoma or the United States of America or any department, subdivision or agency of the State of Oklahoma or the United States of America, or with any "public agency" as defined ~~under~~ by the Interlocal Cooperation Act, Sections 1001 through 1008 of Title 74 of the Oklahoma Statutes, for the purpose of planning, acquiring, financing, owning, operating and maintaining undivided ownership interests in any steam, oil, gas, coal-fired, thermal, geothermal, solar, waste or refuse reclamation powered electric generating plant or plants or any other facilities of every kind necessary, incidental or convenient for the production, generation and transmission of electric power and energy including, but not limited to, any and all related transmission or other facilities which are to be used as common facilities and to cooperate with other state agencies and public trusts to promote economic development in the state and to assist in attracting industry to the state. ~~Such~~ The undivided ownership interests may be created by an agreement entered into with respect to property to be acquired by the district. Any ~~such~~ agreement may be a sale agreement, with the purchase price payable at one time or in installments at such time and over such period as shall be agreed to by the parties thereto, a lease agreement, with a nominal purchase option, or any other type

of agreement. In addition to the purchase price, the district shall be fully indemnified as to operation, maintenance, administrative and other expenses incurred with respect to such undivided interest. Any payment received in respect to any ~~such~~ agreement shall be deemed revenues of the Authority. The district is hereby authorized to enter into any such agreement in order to sell, lease or otherwise convey undivided ownership interests in any such property. Any ~~such~~ agreement shall specify the undivided interest to be owned or acquired by each of the participants, provide for a waiver of partition, prescribe the time of vesting of such interest and the amount of electrical output to be owned and controlled by any participant.

Each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition and construction of any common facility, or any additions or betterments thereto. The agreement shall provide a uniform method of determining and allocating operation and maintenance expenses of the common facility.

In carrying out the powers granted in this section, the district and each participant shall be severally liable only for its own acts and not jointly or severally liable for the acts, omissions or obligations of others. No money or property supplied by the district or any participant for the planning, financing, acquiring, constructing, operating or maintaining of any common plant or facility shall be credited or otherwise applied to the account of any other participant therein, nor shall the undivided share of the district or any participant therein be charged, directly or indirectly, with any debt or obligation of any other participant or

be subject to any lien as a result thereof. No action in connection with a common facility shall be binding upon the district except as expressly authorized and provided for in the participation agreement;

~~(h)~~ H. To acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within or without the boundaries of the district, necessary, incidental or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by Section 861 et seq. of this act title, in the manner provided by general law with respect to condemnation; provided that nothing in Section 861 et seq. of this act title shall ever be construed to authorize the district to acquire by condemnation any privately, municipally or publicly owned electric public utility system or any part thereof outside of the high-water mark of a reservoir area or outside a properly located damsite, except the districts may require the relocation of transmission lines and substations so owned where ~~such~~ the relocation is necessary for the construction and maintenance of dams, reservoirs, levees, spillways and floodways, and in ~~such~~ the event just compensation shall be paid. Provided, that the Grand River Dam Authority shall have the right to cross transmission lines of other electric utility companies under proper engineering standards of construction as approved by the Corporation Commission;

~~(i)~~ I. Subject to the provisions of Section 861 et seq. of this act title, from time to time sell, which shall include, but not be limited to, an installment sale agreement, lease with nominal purchase options, or otherwise dispose of any property of any kind, real, personal or mixed, or any interest therein, which shall not be necessary to the carrying on of the business of the district;

~~(j)~~ J. To overflow and inundate any public lands and public property and to require the relocation of roads and highways in the manner and to the extent necessary to carry out the purposes of Section 861 et seq. of this act title; provided, that ~~said~~ the district shall be liable in damages to the State of Oklahoma or any political subdivision thereof for any injury occasioned or expense incurred by reason thereof;

~~(k)~~ K. To construct, extend, improve, maintain and reconstruct, to cause to be constructed, extended, improved, maintained and reconstructed, and to use and operate any and all facilities of any kind necessary, incidental or convenient to the exercise of ~~such~~ any powers, rights, privileges and functions;

~~(l)~~ L. To sue and be sued in its corporate name in contracts, reverse condemnation, tort, equity, mandamus and similar actions and in its own name plead and be impleaded~~r~~i; provided, however, that any and all actions of law or in an equity against the district shall be brought in the county in which the principal office of the district shall be located or in the county where the cause of action arose;

~~(m)~~ M. To adopt, use and alter a corporate seal;

~~(n)~~ N. To make bylaws for the management and regulation of ~~its~~ the district's affairs;

~~(o)~~ O. To appoint officers, agents and employees, to prescribe their duties and to fix their compensation; and enter into contracts with labor unions, provided, that contracts with labor unions shall not abrogate the rights of the district to cooperate and carry out Veterans on the Job Training;

~~(p)~~ P. To make contracts and to execute instruments necessary, incidental or convenient to the exercise of the powers, rights, privileges and functions conferred upon ~~it~~ the district by this ~~act~~ title;

~~(q)~~ Q. To borrow money for ~~its~~ the district's corporate purposes and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and, in connection with any such loan or grant, to enter into ~~such~~ agreements as the United States of America or ~~such~~ the corporation or agency may require; and to make and issue its negotiable bonds for money borrowed, in the manner provided in Section 861 et seq. of this act title. Nothing in Section 861 et seq. of this act title shall authorize the issuance of any bonds, notes or other evidences of indebtedness of the district, except as specifically provided in Section 861 et seq. of this act title;

~~(r)~~ R. To prescribe and enforce rules ~~and regulations for the use~~ for recreational and commercial purposes of the lakes created by the district by impounding the waters of ~~said~~ the lakes, and the shorelands of the district bordering thereon, including the use of firearms, the inspection of all boats of every character proposing to operate or operating on ~~said~~ the lakes, the issuance of permits for the operation of boats, surfboards, aquaplanes, sea-skis or similar devices on ~~said~~ the lakes for hire; the charging and collection of fees for the inspection or operation of ~~such~~ the boats, surfboards, aquaplanes, sea-skis or other similar devices on ~~said~~ the lakes for hire; preventing the launching or operation of any commercial or for-hire boat, surfboard, aquaplane, sea-ski or similar device for hire, on the waters of ~~said~~ the lakes, without a certificate of inspection and a permit for ~~such~~ use; prescribing the type, style, location and equipment of all wharves, docks and anchorages along the shores and upon the water of ~~said~~ the lakes; the issuance of permits for wharfage, dock or anchorage privileges and charging fees for ~~such~~ commercial or private permits; ~~and~~ the

establishment and maintenance of public wharves, docks or anchorages and the charging and collection of fees for the use thereof by the public; the setting of maximum speed limits for any vessels operating on the lakes; the establishment of fines or other penalties for violations of speed limits on the lakes; to appoint or employ ~~such~~ any persons as the district may deem proper and suitable for the purpose of enforcing ~~such any~~ rules and regulations as may be issued hereunder, or as may be; rules issued pursuant to the provisions of ~~Sections~~ Section 4200 et seq. of Title 63 of the Oklahoma Statutes, ~~and;~~ for the enforcing of the provisions of Section 861 et seq. of this act title, and for enforcing all violations of criminal laws occurring within the boundary of all real property owned or leased by the Grand River Dam Authority, which employees shall have the power of peace officers of this state during the performance of those duties, except in the serving or execution of civil process; and

~~(s)~~ S. 1. To do any and all other acts or things necessary, incidental or convenient to the exercise of the powers, rights, privileges or functions conferred upon ~~it~~ the district by Section 861 et seq. of this act title or any other act or law. Provided ~~said the~~ the district shall be liable for damage caused by ~~said the~~ the district, its agents, servants and employees in creating, constructing, maintaining or operating ~~said the~~ the district to any corporation, partnership, person or individual whose property, either real or personal, within or without ~~said the~~ the district, has been damaged and ~~said the~~ the damages may be determined by appropriate action as provided by law. Nothing in Section 861 et seq. of this act title shall be construed as rendering the district liable for damage where it is not liable on general principles of law or statute or Constitutional provision.

2. Provided, however, that in the course of exercising ~~its~~ the powers of the district as herein enumerated, the ~~said~~ district shall at all times consider the rights and needs of the people living within and upon the land lying within the watershed of the rivers or streams developed by the district; provided, however, that nothing herein shall prevent the district from selling for irrigation purposes within the boundaries of the district any water impounded by it under authority of law, provided that nothing herein contained shall authorize the state to engage in agriculture except for educational and scientific purposes and for the support of its penal, charitable, and educational institutions.

SECTION 3. 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.

45-2-1752

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