

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1367

By: Weaver

AS INTRODUCED

An Act relating to public health and safety; amending Section 3, Chapter 337, O.S.L. 1996 (63 O.S. Supp. 1996, Section 4210A), which relates to operation of a vessel under the influence of alcohol; adding conditions that constitute operating a vessel under the influence of alcohol; establishing that certain observations or a chemical test may be used as evidence of intoxication; and providing an effective date.

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

SECTION 1. AMENDATORY Section 3, Chapter 337, O.S.L. 1996 (63 O.S. Supp. 1996, Section 4210A), is amended to read as follows:

Section 4210A. 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; or

4. Is operating any vessel and the effect of the intoxicant or intoxicants consumed by the individual on the manner, disposition, speech, muscular movement, general appearance, or behavior of the person is apparent by observation.

B. 1. Acceptable evidence of intoxication includes, but is not limited to:

- a. personal observation of the manner, disposition, speech, muscular movement, general appearance, or behavior of an individual, or
- b. a chemical test.

2. 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.~~ 3. 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.~~ 4. 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 2. This act shall become effective November 1, 1997.

46-1-5802

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