

ENROLLED SENATE
BILL NO. 760

By: Rozell of the Senate

and

Smithson of the House

An Act relating to public safety; amending 63 O.S. 2001, Sections 4002, 4030, as amended by Section 1 of Enrolled House Bill No. 1688 of the 1st Session of the 49th Oklahoma Legislature, 4032, 4040, 4207, 4210, 4212 and 4218, which relate to the Oklahoma Vessel and Motor Registration Act and the Oklahoma Boating Safety Regulation Act; modifying definitions; providing that certain provisions not applicable to fishing tubes; making it unlawful to offer certain vessels, motors or parts for sale; modifying definition of "broker"; deleting provisions dividing vessels into four classes; making certain provisions applicable to vessels of certain length; prohibiting operation of certain vessels by child under age of twelve; prohibiting causing, allowing, authorizing or permitting such child to operate certain vessels; providing penalty; exempting personal watercraft from certain requirements; modifying application of certain penalties; deleting certain penalty; providing for recodification; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 4002, is amended to read as follows:

Section 4002. As used in the Oklahoma Vessel and Motor Registration Act, ~~Section 4002 et seq. of this title:~~

1. "Boat livery" means a business establishment engaged in renting or hiring out vessels for profit;
2. "Certificate of documentation" means a document issued by the United States Coast Guard which is legal proof of ownership of a vessel;
3. "Certificate of registration" means a document which is legal proof of registration of a vessel or motor;
4. "Certificate of title" means a document which is proof of legal ownership of a vessel and/or motor;

5. "Commission" means:

- a. the Oklahoma Tax Commission, or
- b. the equivalent vessel registration and licensing agency of a federally recognized Indian tribe in this state;

6. "Dealer" means any person engaged in the business of selling, trading, renting with option to purchase, or attempting to negotiate or negotiating sales or exchanges of interests in new or used vessels or motors, or new and used vessels or motors, or any combination thereof;

7. "Dealer agreement" means the agreement, authorization or written contract between a manufacturer and distributor and a new vessel dealer which purports to establish the legal rights and obligations of the parties to the agreement, authorization or written contract with regard to the purchase and sale of new vessels or new motors;

8. "Designated successor" means one or more persons nominated by the new vessel dealer, in a written document filed by the dealer with the manufacturer or distributor at the time the dealer agreement is executed, to succeed the dealer in the event of ~~his~~ the dealer's death or incapacity. If a designated successor is not able to succeed the new vessel dealer because of the designated successor's death or legal incapacity, the dealer shall execute a new document nominating a designated successor within sixty (60) calendar days after the date of the death or incapacity;

9. "Distributor" means a person, resident or nonresident, who in whole or in part offers for sale, sells, or distributes a new vessel or new motor to a new vessel dealer or who maintains a factory representative, resident or nonresident, or who controls a person, resident or nonresident, who in whole or in part offers for sale, sells, or distributes a new vessel or new motor to a new vessel dealer;

10. "Distributor branch" means a branch office similarly maintained by a distributor or wholesaler for the same purposes a factory branch is maintained;

11. "Distributor representative" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vessels or motors, for the purpose of making or promoting the sale of his or her, its or their vessels or motors, or for supervising or contacting his, its or their dealers or prospective dealers;

12. "Documented vessel" means any vessel in this state which shall have and carry on board the original certificate of documentation in legible form as issued by the United States Coast Guard or federal agency successor thereto. All documented vessels

shall be required to display a current State of Oklahoma annual registration decal;

13. "Factory branch" means a branch office maintained by a person, firm, association, corporation or trust who manufactures or assembles vessels or motors for the sale of vessels or motors to distributors, or for the sale of vessels or motors to dealers, or for directing or supervising, in whole or in part, its representatives;

14. "Factory representative" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a manufacturer of vessels or motors or by a factory branch, for the purpose of making or promoting the sale of his, her, its or their vessels or motors, or for supervising or contacting his, its or their dealers or prospective dealers;

15. "Hull identification number" means the serial number affixed to the outside of the hull of a vessel on the upper starboard side (right) corner of the transom (back wall) which is assigned by the manufacturer or the Commission;

16. "Inboard motor" means an internal combustion engine mounted inside a vessel which provides the transfer of power to move a vessel through the water;

17. "Inboard/outboard motor" means an internal combustion engine mounted inside a vessel and an external stern drive attached through the transom of the vessel providing the transfer of power to move the vessel through the water;

18. "John boat" means a narrow, flat bottomed square-ended boat propelled by a pole, paddle or a motor less than ten (10) horsepower;

19. "Lifeboat" means a vessel carried on another vessel in excess of sixty-five (65) feet for use if such other vessel has to be abandoned;

20. "Manufacturer" means a person who manufactures or assembles new vessels or new motors, or a distributor, factory branch, or factory representative;

21. "Motor" means any internal combustion engine mounted at the stern of a vessel or placed inside a vessel which provides the transfer of power to move the vessel through the water;

22. "New vessel dealer" means a person who holds a dealer agreement granted by a manufacturer or distributor for the sale of the manufacturer's or distributor's vessels or motors, who is engaged in the business of purchasing, selling, exchanging, or dealing in new vessels or new motors, and who has an established place of business;

23. "Operate" means to navigate or be in actual physical control of a vessel or otherwise use a vessel or motor;

24. "Outboard motor" means an internal combustion engine capable of being externally mounted at the stern of a vessel which provides the transfer of power to move a vessel through the water;

25. "Owner" means a person, other than a lienholder, having a property interest in or title to a vessel or motor. The term includes a person entitled to the use or possession of a vessel or motor subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

26. "Permanent number" means the distinctive and unique number which:

- a. the Commission permanently assigns to a vessel, irrespective of any change of ownership of said vessel. The permanent number shall begin with the letters "OK", followed by four numerals, and then followed by two letters, or
- b. any federally recognized Indian tribe in this state assigns to a vessel;

provided, the number is configured as prescribed in 33 C.F.R., Parts 173 and 174;

27. "Person" means a natural person, partnership, corporation, association, trust, estate or other legal entity;

28. "Proposed new vessel dealer" means a person who has an application pending for a new dealer agreement with a manufacturer or distributor. Proposed new vessel dealer does not include a person whose dealer agreement is being renewed or continued;

29. "Purchase date" means the purchase date on a bill of sale or the date of complete assignment of title by the current owner;

30. "State" means the State of Oklahoma;

31. "State of principal use" means the state where the vessel or motor is used, is to be used, or remains for any period in excess of sixty (60) calendar days;

32. "Vessel" means every device, other than a seaplane on the water, used or capable of being used as a means of transportation on water, including but not limited to personal watercraft; and

33. "Waters of this state" means and includes all waters within the territorial limits of this state ~~except any waters which are owned by a municipality;~~ provided, such phrase shall not mean or include ~~any lake the waters of which are entirely owned by a private person or persons, and to which the public is not permitted access, and which is not a part of the navigable waters of the United States; and provided further such phrase shall not include any lake of one hundred (100) acres or less.~~

SECTION 2. AMENDATORY 63 O.S. 2001, Section 4030, as amended by Section 1 of Enrolled House Bill No. 1688 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 4030. A. Except as otherwise provided by this section, every vessel on the waters of this state shall display the permanent number assigned to it by the Oklahoma Tax Commission or by a federally recognized Indian tribe which number shall not be obliterated, erased, mutilated, removed or missing.

B. The vessels authorized to display a number other than that required by the provisions of the Oklahoma Vessel and Motor Registration Act are:

1. A documented vessel, provided that such vessel is currently registered, is displaying both current registration decals, and the name, hailing port and official federal documentation number assigned to it are displayed on the vessel according to federal law or federal rules and regulations;

2. A vessel from a country other than the United States temporarily using the waters of this state;

3. A vessel from another state owned by an out-of-state resident using the waters of this state;

4. A vessel whose owner is the United States, a state or a subdivision thereof; provided, however, if such vessel is used for recreational or rental purposes on the public waters of this state, said vessel shall display the permanent number assigned to it by the Commission;

5. A vessel that is used exclusively and solely for racing purposes;

6. A vessel that is used exclusively and solely as a lifeboat; and

7. A commercial flotation device which is assigned a permit by the Oklahoma Scenic Rivers Commission pursuant to the provisions of Sections 1461 et seq. of Title 82 of the Oklahoma Statutes.

C. Except as otherwise provided for in this section, every vessel and every outboard motor on the waters of this state shall display the current registration decals or decal assigned to it by the Oklahoma Tax Commission. If, due to the size of the decal, the decal is unable to be properly displayed on the vessel or outboard motor, a new decal shall be issued for the vessel or outboard motor that would be able to be displayed properly.

D. The owner of any vessel issued a permanent number pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, shall place on or attach to the vessel said permanent number in such manner as may be prescribed by

the rules of the Commission, in order that it may be clearly visible. The number shall be maintained in legible condition.

E. The provisions of this section shall not apply to sailboards or fishing tubes.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 4032, is amended to read as follows:

Section 4032. A. It shall be unlawful for any person to:

1. ~~lend~~ Lend or to sell to, or knowingly permit the use of by one not entitled thereto, any certificate of title or registration issued to or in the custody of the person so lending or permitting the use thereof;
2. ~~alter~~ Alter or in any manner change a certificate of title or registration certificate issued under the laws of this or any other state;
3. ~~procure~~ Procure from another state or country or display upon any vessel owned by ~~him~~ the person within this state, except as otherwise provided by the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, any number issued by any state or country other than this state, unless there shall be displayed upon such vessel at all times the permanent number assigned to it by the Commission;
4. ~~buy~~ Buy, sell or dispose of, or have in ~~his~~ the person's possession for sale, use or storage, any secondhand or used vessel or motor on which the registration fee has not been paid, as required by law, and on which vessel or motor said person neglects, fails or refuses to display at all times the permanent number assigned to it;
5. ~~register~~ Register a vessel or motor on an assigned certificate of title. This particular paragraph shall be applicable to all persons except bona fide dealers who are holders of current and valid dealers' licenses;
6. ~~operate~~ Operate a vessel or motor upon the waters of this state after the registration deadline for that vessel or motor without a proper title and registration, as prescribed by the Oklahoma Vessel and Motor Registration Act, for the current year; provided, for the registration year beginning April 1, 2005, the provisions of this paragraph shall not apply until July 1, 2005;
7. ~~release~~ Release a certificate of title or excise tax receipt to any unauthorized person or source, including any dealer. Violation of this paragraph shall constitute sufficient grounds for discharge of a motor license agent by the Commission; ~~or~~
8. ~~alter~~ Alter or in any manner change a permanent number issued for a vessel under the laws of this state or any other state; or

9. Offer for sale any used vessel, used motor, or any used vessel or motor part if the vessel, motor, or part:

- a. is not currently registered, if required,
- b. has had the hull identification number or serial number removed,
- c. has a hull identification number or serial number which does not match the number listed on the current title or registration, or
- d. appears, is suspected, or is known to be stolen.

Anyone violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed Fifty Dollars (\$50.00) for each such violation.

B. Any owner who knowingly makes or causes to be made any false statement of a fact required in this section to be shown in an application for the title or registration of one or more vessels or motors shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00), or shall be imprisoned in the county jail for not more than one (1) year, or both such fine and imprisonment.

C. A violation of this section and any of the provisions of Sections 4002 through 4031 of this title where a specific penalty has not been imposed shall constitute a misdemeanor and upon conviction thereof the person having violated it shall be fined not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00).

D. In addition thereto, it is specifically provided that any person stating or giving or causing to be stated or given any false information as to the location of any vessel or motor shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 4040, is amended to read as follows:

Section 4040. A. It shall be unlawful to be a broker.

B. For the purposes of this section, "broker" means a person who, for a fee, commission or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new or used vessel or new or used motor, and who is not:

1. A new or used vessel or new or used motor dealer or agent or employee of such a dealer; or

2. A distributor or an agent or employee of such a distributor.

However, an individual shall not be deemed to be a broker if ~~he~~ the individual is the owner of the new or used vessel or new or used motor which is the object of the brokering transaction.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 4207, is amended to read as follows:

~~Section 4207. A. Vessels subject to the provisions of the Oklahoma Boating Safety Regulation Act shall be divided into four classes as follows:~~

~~Class A. Less than sixteen (16) feet in length.~~

~~Class 1. Sixteen (16) feet or over and less than twenty-six (26) feet in length.~~

~~Class 2. Twenty-six (26) feet or over and less than forty (40) feet in length.~~

~~Class 3. Forty (40) feet or over.~~

~~B.~~ Every vessel in all weathers between the hours from sunset to sunrise and during periods of restricted visibility shall carry and exhibit the lights prescribed by the United States Coast Guard when under way, including, but not limited to, the following:

1. Every power-driven vessel shall carry and exhibit:

- a. a masthead light forward. A vessel less than twenty (20) meters, or less than sixty-five (65) feet seven and one-half (7 1/2) inches in length need not exhibit this light forward of amidships but shall exhibit it as far forward as practicable, and
- b. side lights, and
- c. a stern light;

2. Any power-driven vessel of less than twelve (12) meters, or less than thirty-nine (39) feet four and one-half (4 1/2) inches in length may carry and exhibit, in lieu of the lights prescribed in paragraph 1 of this subsection, an all-around white light and side lights;

3. Every sailing vessel shall carry and exhibit:

- a. side lights, and
- b. a stern light;

4. Any sailing vessel of less than twenty (20) meters, or less than sixty-five (65) feet seven and one-half (7 1/2) inches, in length may combine the lights prescribed in paragraph 3 of this subsection within one lantern carried at or near the top of the mast where it can be seen as nearly all-around as possible;

5. Any sailing vessel may carry and exhibit, in addition to the lights prescribed in paragraph 3 of this subsection but not in conjunction with any combination lantern as provided in paragraph 4 of this subsection, two all-around lights in a vertical line, the upper being red and the lower being green, at or near the top of the mast where they can be seen as nearly all-around as possible;

6. Every sailing vessel of less than seven (7) meters, or less than twenty-three (23) feet eleven and one-half (11 1/2) inches in length shall carry and exhibit if practicable, the lights prescribed in paragraph 3 or 4 of this subsection. If such exhibition is not practicable, there shall be carried ready at hand on the vessel a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision;

7. Every sailing vessel propelled by a combination of sail and motor shall carry and exhibit the lights of a power-driven vessel prescribed in paragraph 1 or 2 of this subsection;

8. Every manually powered vessel may carry and exhibit the lights prescribed in this subsection for sailing vessels. If such lights are not carried and exhibited, there shall be carried ready at hand on the vessel a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision; and

9. Every vessel at anchor shall carry and exhibit an all-around white light in such a position where it may best be seen. The deck of an anchored vessel may be illuminated by available auxiliary lights, provided the auxiliary lights do not interfere with the visibility of required lights or impair the safe navigation of other vessels.

For purposes of this section, "restricted visibility" shall mean any condition which restricts visibility including but not limited to fog, mist, falling snow, heavy rain or sandstorm.

~~C.~~ B. Every vessel shall be provided with an efficient whistle or other sound-producing mechanical appliance; provided, however, no vessel, except for emergency and law enforcement vessels, shall be equipped with a siren.

~~D.~~ C. Every vessel of ~~Class 2 and 3~~ eight (8) meters or greater, or twenty-six (26) feet three (3) inches or greater, in length shall be equipped with an efficient bell.

~~E.~~ D. Every vessel shall be required to carry:

1. At least one wearable personal flotation device for each person on board so placed as to be readily accessible and of a size suitable to the person who is or will be wearing it; and

2. At least one type IV (throwable) personal flotation device on board, so placed as to be readily accessible. This paragraph shall not apply to any vessel under sixteen (16) feet in length.

All lifesaving devices shall be in good and serviceable condition.

~~F.~~ E. Every vessel using flammable liquid as fuel shall be equipped with such number, size, and type of United States Coast Guard approved fire extinguisher as prescribed in the rules of the Department of Public Safety. Such extinguisher shall be capable of promptly and effectively extinguishing burning fuel. Fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed and secured to the vessel as to be readily accessible.

~~G.~~ F. The provisions of subsections B, C, ~~D~~, and ~~F~~ E of this section shall not apply to vessels while competing in any race conducted pursuant to Section 4205 of this title, or, if such vessels are designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of vessels and motors for the race.

~~H.~~ G. Every vessel shall have the carburetor or carburetors of every motor therein, except outboard motors, using any liquid as fuel, equipped with a United States Coast Guard or U.L. or S.A.E. approved backfire flame arrestor or other appropriate attachment, as prescribed by the rules of the Department of Public Safety.

~~I.~~ H. Every vessel, except open vessels, using any liquid as fuel shall be provided with such means as may be prescribed by the United States Coast Guard for properly and efficiently ventilating the bilges of the motor and fuel tank compartments so as to remove any explosive or inflammable gases.

~~J.~~ I. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof and as prescribed in the rules of the Department of Public Safety.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 4210, is amended to read as follows:

Section 4210. A. No person shall operate, manipulate or give permission to any person to operate or manipulate any parasails, water skis, surfboard, personal watercraft, 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 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 2-101 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 shall cause, allow, authorize, or permit any child under twelve (12) years of age ~~may solely~~ to operate a ~~personal watercraft~~ and no child under twelve (12) years of age shall operate any vessel powered by a motor or combination of motors in excess of ten (10) horsepower or any sail-powered vessel sixteen (16) feet or greater in length on any waters of this state, ~~except unless~~ accompanied on the vessel by another person sixteen (16) years of age or older; provided, this subsection shall not apply on privately owned waters.

H. Any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable, upon conviction, by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250.00) shall be subject to imprisonment in the county jail for a period not to exceed six (6) months.

SECTION 7. AMENDATORY 63 O.S. 2001, Section 4212, is amended to read as follows:

Section 4212. A. 1. No person shall operate or give permission to operate a vessel on any waters of this state for towing a person or persons using parasails or on water skis, a surfboard, or similar device unless there is in such vessel:

- a. a person who is at least eight (8) years old, and who, in addition to the operator, is in a position to observe the progress of the person or persons being towed, ~~or~~
- b. if the vessel is not a personal watercraft, an efficient wide angle convex rear view mirror installed on such vessel in such manner as to permit the person operating said vessel to face the direction of travel and be in a position to observe the progress of the person or persons being towed, or
- c. if the vessel is a personal watercraft, two efficient wide angle convex rear view mirrors installed on such vessel in such manner as to permit the person operating such watercraft to face the direction of

travel and be in a position to observe the progress of the person or person being towed.

2. Water skiing shall be allowed with any watercraft which is designed to accommodate two or more persons.

B. No person shall operate or give permission to operate a vessel on any waters of this state towing a person or persons using parasails or on water skis, a surfboard, a sailboard or similar device nor shall any person engage in parasailing, water skiing, surfboarding, sailboarding or similar activity at any time between the hours from sunset to sunrise or at such time visibility due to other existing conditions is obscured so as to endanger life or property.

C. The provisions of subsections A and B of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under Section 4205 of this title.

D. No person shall operate or give permission to operate or manipulate any vessel, tow rope or other device by which the direction or location of parasails, water skis, a surfboard, or similar device may be affected or controlled in such a way as to cause the parasails, water skis, surfboard, or similar device, or any person thereon to collide with or strike against any object or person.

E. 1. No person shall operate or give permission to operate a personal watercraft or similar device capable of being remote controlled by the skier unless such device is factory equipped with an engine kill switch capable of shutting off the engine in the event the skier becomes detached from the personal watercraft device. A person operating a personal watercraft equipped by the manufacturer with a lanyard type engine cutoff switch shall attach such lanyard to his or her person, clothing, or personal flotation device as appropriate for the specific vessel.

2. No person shall operate a personal watercraft at any time between the hours from sunset to sunrise unless equipped with prescribed lights.

SECTION 8. AMENDATORY 63 O.S. 2001, Section 4218, is amended to read as follows:

Section 4218. A. Except as otherwise provided by the provisions of this section, any person violating the provisions of the Oklahoma Boating Safety Regulation Act, ~~Section 4201 et seq. of this title,~~ for which another penalty is not provided, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine not to exceed Fifty Dollars (\$50.00) for each such violation.

B. Any person who violates Section ~~4210 or~~ 4213 of this title for which another penalty is not provided, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine of

not less than Two Hundred Dollars (\$200.00) and not more than One Thousand Dollars (\$1,000.00).

C. Any person who violates any provision of Sections 4206 through 4212 of this title, for which another penalty is not provided, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed One Hundred Dollars (\$100.00) for each such violation.

~~D. In addition to any fines levied pursuant to this section, any person who violates any provision of Section 4210 of this title, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to imprisonment in the county jail for a period not to exceed six (6) months.~~

SECTION 9. RECODIFICATION 63 O.S. 2001, Section 4210A, shall be recodified as Section 4210.8 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 10. 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 22nd day of May, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 28th day of May, 2003.

Presiding Officer of the House
of Representatives