STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1495

By: Corn, Lamb and Leftwich of the Senate

and

Miller (Ken), Kern, Denny, Peterson (Pam) and Dank of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public health and safety; creating the Kyle Williams Boating Safety Education Act; providing short title; providing definitions; defining certain persons who may operate certain motor- or sail-powered vessels or personal watercraft; establishing requirements for operating specified vessels or personal watercraft; authorizing the Department of Public Safety to promulgate rules for boating safety education certification; designating persons not required to comply with boating safety education certification; enumerating violations relating to Boating Safety Education Certificates; fixing penalties; directing the disposition of fines; authorizing courts to defer the imposition of fines in lieu of other penalties; providing an exemption to penalties within a certain time period; creating the Boating Safety Education Fund; directing proceeds of the fund be used for specific purposes; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4231 of Title 63, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 6 of this act shall be known and may be cited as the "Kyle Williams Boating Safety Education Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4232 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Vessel" shall have the same meaning as defined in Section 4002 of Title 63 of the Oklahoma Statutes, but shall not include personal watercraft; and

2. "Boating safety education course" means a course in safe boating that meets or exceeds the minimum instruction standards as established by the National Association of State Boating Law Administrators in effect at the time the course is completed.

B. A person under sixteen (16) years of age shall not operate any vessel, as defined in this section, 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 the waters of this state unless the person has:

1. Successfully completed a boating safety education course or has passed a proctored equivalency examination which tests the knowledge of information included in the curriculum of such a course; and

2. Received a Boating Safety Education Certificate as evidence of successful completion of a boating safety education course or an equivalency examination.

C. A person at least twelve (12) years of age, but who has not reached sixteen (16) years of age, shall not operate a vessel, as defined in this section, 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 the waters of this state unless the person:

1. Has met the requirements listed in subsection B of this section; and

2. Is accompanied by a competent adult, eighteen (18) years of age or older, who is in a position on or in the vessel to take immediate control of the vessel being operated.

D. 1. A person at least sixteen (16) years of age shall not operate a personal watercraft unless the person has met the requirements listed in subsection B of this section.

2. A person at least twelve (12) years of age, but who has not reached sixteen (16) years of age, shall not operate a personal watercraft unless the person:

a. Has met the requirements listed in subsection B of this section; and

b. Is under the visual supervision by a competent adult, eighteen (18) years of age or older within a distance of five hundred (500) yards.

The operator of a personal watercraft shall stay at least fifty (50) feet away from all moving vessels, shall idle at or in the vicinity of docks and swimmers, and shall wear an approved personal flotation device.

E. The Department of Public Safety shall promulgate rules necessary for:

1. The certification of programs and tests for boating safety education offered by other public or private organizations;

2. The administration of a boating safety education program; and

3. The issuance of boating safety education certificates.

F. A Boating Safety Education Certificate issued by the Department of Public Safety to a person who has successfully completed a boating safety education course or course equivalency examination shall not expire.

G. A person who is operating a vessel on the waters of this state shall have in his or her immediate possession:

1. The original Boating Safety Education Certificate as proof the operator meets the requirements of this section; or

2. A photo identification that clearly shows the operator is sixteen (16) years of age or older.

Failure to present such proof upon request by a peace officer shall be prima facie evidence of a violation of this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4233 of Title 63, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided, a person is not required to comply with the certification required by Section 2 of this act if the person:

1. Is not a resident of this state and has proof the person has successfully completed a boating safety education course or equivalency examination in another state or foreign country that is approved by the Department of Public Safety;

2. Is participating in a sanctioned event as defined in Section 4201 et seq. of this title; or

3. Is operating a personal watercraft as defined in Section 4201 et seq. of this title in a no-wake zone while under the supervision of an adult.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4234 of Title 63, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any person to:

1. Alter, forge, counterfeit or falsify any Boating Safety Education Certificate issued under the laws of this or any other state;

2. Possess a Boating Safety Education Certificate that has been altered, forged, counterfeited or falsified;

3. Lend or to sell to, or knowingly permit the use of by one not entitled thereto, any Boating Safety Education Certificate; or

4. Make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application for a Boating Safety Education Certificate.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4235 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any parent, legal guardian or person having actual responsibility for a person under sixteen (16) years of age, or who is the owner of the vessel operated by a person under sixteen (16) years of age, who knows, or should have known, that the person operating the vessel is not in compliance with the certification required by Section 2 of this act shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars ($100.00). Any second or subsequent conviction shall be punishable by a fine in an amount of not less than Two Hundred Fifty Dollars ($250.00), nor more than Five Hundred Dollars ($500.00).

B. A violation of the provisions of Section 2 of this act shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00).

C. All fines collected under this section shall be deposited to the Boating Safety Education Fund administered by the State Boating Law Administrator as designated by the Commissioner of Public Safety for the purpose of establishing, maintaining and operating a program of boating safety education throughout the State of Oklahoma.

D. A court may defer the imposition of a fine and place a defendant on probation for a period not to exceed sixty (60) days if the defendant:

1. Is a first-time violator of a provision of this section;

2. Pleads guilty or nolo contendere or is found guilty;

3. Requests permission from the court to attend a boating safety education course; and

4. Successfully completes a boating safety education course approved by the Department of Public Safety during the probation period.

E. Any person producing proof in court that a valid Boating Safety Education Certificate or equivalent form recognized by the Department of Public Safety reflecting such person has successfully completed a boating safety education course or is exempt from such course was in effect at the time of the alleged offense of Section 2 of this act shall be entitled to dismissal of such charge upon payment of court costs. If such proof is provided within two (2) regular business days after the violation, the charge shall be dismissed without payment of court costs.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4236 of Title 63, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Department of Public Safety to be designated the "Boating Safety Education Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fine monies collected pursuant to Section 5 of this act and any monies contributed to the fund from any other source. All monies accruing to the credit of such fund are hereby appropriated and shall be budgeted and expended by the Department for the exclusive purposes of establishing and maintaining a boating safety education program throughout the State of Oklahoma. Expenditures from such fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 7. This act shall become effective January 1, 2007.

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