

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1328

By: McDaniel

AS INTRODUCED

An Act relating to boating safety; amending 63 O.S. 2001, Section 4208, which relates to noise control equipment and noise levels; modifying muffler requirements; prohibiting manufacture, sale, or operation of motorboat that exceeds certain noise levels; prohibiting removal, alteration, or modification of muffler under certain circumstances; providing exceptions; prohibiting manufacture or sale of motorboat with muffler under certain circumstances; providing an exception; requiring certain documentation for exception; requiring copies of agreement be maintained by certain parties; requiring certificate of decibel level compliance by manufacturer upon request; requiring purchaser to sign certain acknowledgement; requiring certain affidavit from dealer; providing an exception for certain events or manufacturer testing or development; authorizing the enforcement of noise level restriction by peace officers; providing certain amount of time to comply with noise level requirements; requiring owner to moor the motorboat until compliant; allowing issuance of citations during compliance period; requiring peace officer to obtain qualification in motorboat noise testing; providing penalty; designating where noise level restrictions apply; providing an exception; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 4208, is amended to read as follows:

Section 4208. A. ~~No person shall operate upon the waters of this state any vessel or motor which is not equipped with a muffler or muffler system in good working order. The use of cutouts, removal of mufflers or muffler baffles, cutting or punching of holes in mufflers or otherwise modifying the original muffler or muffling system installed by the manufacturer or any subsequent muffler or~~

~~muffling system so as to increase or modify the noise level is prohibited. This section shall not apply to vessels in the act of participating in a sanctioned event.~~ Effective January 1, 2006, a person shall not manufacture, sell or offer for sale or operate in this state any motorboat manufactured after that date that exceeds the noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by the Society of Automotive Engineers Recommended Practice SAE J2005. All motorboats manufactured prior to January 1, 2006, shall not exceed eighty-six (86) decibels on an A-weighted scale when subjected to a sound level test as prescribed by Society of Automotive Engineers Recommended Practice SAE J34 when measured from a distance of fifty (50) or more feet from the motorboat.

B. No person shall remove, alter or otherwise modify in any way a muffler or muffler system in a manner which will prevent it from being operated in accordance with this section. Nothing in this section shall preclude a person from removing, altering or modifying a muffler or muffler system so long as the muffler or muffler system continues to comply with subsection A of this section. This section shall not be construed so as to prohibit the use of any exhaust system or device, including but not limited to those not discharging water with exhaust gases, so long as the device or system is in compliance with subsection A of this section.

C. Effective January 1, 2006, a person shall not manufacture, nor shall any person sell or offer for sale any motorboat which is manufactured after January 1, 2006, which is equipped with a muffler or muffler system that does not comply with this section. This subsection shall not apply to power vessels designed, manufactured, and sold for the sole purpose of competing in racing events and for no other purpose. Any exemption or exception shall be documented in every sale agreement and shall be formally acknowledged by signature on the part of both the buyer and the seller. Copies of the

agreement shall be maintained by both parties. A copy of the agreement shall be kept on board whenever the motorboat is operated. Any motorboat sold under this exemption may only be operated on the waters of this state in accordance with subsection E of this section.

D. As of January 1, 2006, every manufacturer which delivers a new motorboat for sale in this state shall certify, if the purchaser or dealer makes a request in writing, that the decibel level of the motorboat engine, muffler, and exhaust system, as delivered to any licensed dealer in this state, does not exceed the noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by the Society of Automotive Engineers Recommended Practice SAE J2005. The certificate of decibel level from the manufacturer shall be given by the dealer to the purchaser of the new motorboat if the motorboat is sold for use upon the waters of this state. The purchaser shall sign a statement acknowledging receipt of the certificate of decibel level which shall be supplied by the dealer. The dealer shall represent by affidavit whether or not the engine or muffler system of the new motorboat being sold has been altered or modified in any way.

E. The provisions of this section shall not apply to motorboats registered and actually participating in a racing event or tune-up periods for the racing events or to a motorboat being operated by a boat or engine manufacturer for the purpose of testing or development. The operator of any motorboat operated upon the waters of this state for the purpose of a tune-up for a sanctioned race or for testing or development by a boat or engine manufacturer shall at all times have in the possession of the operator and produce on demand by a peace officer a test permit issued by the Department of Public Safety. For the purpose of races or racing events, the race shall only be sanctioned when conducted in accordance with and approved by the United States Coast Guard or this state.

F. Any peace officer authorized to enforce the provisions of this section who has probable cause to believe that a motorboat is not in compliance with the noise levels established in this section may direct the operator of the motorboat to submit the motorboat to an on-site test to measure noise levels, with the peace officer on board if the peace officer chooses, and the operator shall comply with the request. The owner of any motorboat which violates any provision of this section shall have sixty (60) days from the date of the violation to bring the motorboat into compliance with the provisions of this section. Thereafter, it shall be the responsibility of the owner to have the motorboat tested by the Department of Public Safety. If the motorboat fails the test, the owner shall immediately moor the motorboat and shall keep the motorboat moored until the Department of Public Safety certifies that the motorboat is in compliance with the provisions of this section. Nothing in this subsection shall be construed to limit the ability of the peace officer to enforce this section and to issue citations to the owner or operator of any motorboat during the sixty-day compliance period.

G. Any peace officer who conducts motorboat sound level tests as provided in this section shall be qualified in motorboat noise testing by the Department of Public Safety. The qualifications shall include but may not be limited to the selection of the measurement site and the calibration and use of noise testing equipment in accordance with the testing procedure prescribed by the Society of Automotive Engineers Recommended Practice SAE J2005 and SAE J34.

~~B.~~ H. No person shall authorize, cause or permit unnecessary sounding of any whistle, horn, bell, siren or other sound-producing device on a vessel while such vessel is within any harbor limits or in areas of congested vessel traffic.

I. Any person who knowingly violates the provisions of this section or who fails to comply with a request of a peace officer made pursuant to subsection F of this section shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine not exceeding One Hundred Dollars (\$100.00) for each such violation.

J. This section shall only apply to lakes and navigable waterways with an aggregate shoreline in excess of one hundred sixty (160) miles. This section shall not apply to motorboats not intended for use in this state.

K. As used in this section, the term "muffler" means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and which prevents excessive or unusual noise.

SECTION 2. This act shall become effective November 1, 2005.

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