

ENROLLED HOUSE
BILL NO. 3076

By: Dorman and Pittman of the
House

and

Aldridge of the Senate

An Act relating to public health and safety; amending 63 O.S. 2001, Sections 4201, as amended by Section 2, Chapter 66, O.S.L. 2002, 4210, as amended by Section 6, Chapter 393, O.S.L. 2003 and 4214 (63 O.S. Supp. 2007, Sections 4201 and 4210), which relate to the Oklahoma Boating Safety Regulation Act; defining term; modifying scope of certain prohibited act; making certain act unlawful; providing an exception; increasing property damage amount; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 4201, as amended by Section 2, Chapter 66, O.S.L. 2002 (63 O.S. Supp. 2007, Section 4201), is amended to read as follows:

Section 4201. In addition to the terms defined by the Oklahoma Vessel and Motor Registration Act, for the purposes of the Oklahoma Boating Safety Regulation Act:

1. "Buoy" means an anchored marker for marking a position on the water, or a hazard, shoal or mooring, or any other prohibitive activity area;

2. "Capacity plate" means a sign posted in view of the operator's station on a vessel which designates the maximum weight capacity and horsepower restrictions of a vessel for safe operation;

3. "Diver's flag" means a red flag not less than twenty (20) inches by twenty-four (24) inches with a four-inch white stripe running from one upper corner to a diagonal lower corner, and such flag is used to indicate a submerged diver;

4. "Emergency vessel" means any law enforcement vessel which is legally authorized to operate in the emergency mode;

5. "Law enforcement vessel" means any vessel legally authorized to operate under the color of law;

6. "Lienholder" means a person holding a security interest in a vessel, as shown on the vessel title;

7. "Manipulate" means to guide, steer or otherwise control;

8. "Marine sewage" means any substance, treated or untreated, that contains any of the waste products of humans or animals or foodstuffs;

9. "Marine toilet" means any latrine, head, lavatory or toilet intended to receive marine sewage and which is located on or in any vessel;

10. "Operator" means the person who operates, has actual physical control, or has charge of the navigation or use of a vessel;

11. "Parasail" means any device which, when airborne, is used or capable of being used for lifting or suspending a person who is being or will be towed by a vessel;

12. "Passenger" means any person riding in or upon any vessel or being towed for recreation on water skis, an inner tube, kneeboard, parasail or any similar device;

13. "Personal flotation device" means only a United States Coast Guard approved flotation device;

~~13.~~ 14. "Personal watercraft" means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel, or a vessel which is similar in appearance and operation to a personal

watercraft but which is powered by an outboard or propeller driven motor, or a vessel less than sixteen (16) feet in length which travels across the water above or on a cushion of air provided by engines, propellers or other means of propulsion;

~~14.~~ 15. "Sanctioned event" means any organized event on the waters of this state, including but not limited to regattas, motorboat or other boat races, marine parades, tournaments and exhibitions, which is approved and permitted by an authorizing agency;

~~15.~~ 16. "Under way" means the movement of a vessel whether by mechanical or nonmechanical means which is other than incidental to the force of wind, waves or current; and

~~16.~~ 17. "Wake" means the track of waves left by a vessel or other object moving through the water, and such waves are greater than the natural waves in the immediate area of the vessel, or are cresting and showing white water, or may cause injury or damage to any person or property.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 4210, as amended by Section 6, Chapter 393, O.S.L. 2003 (63 O.S. Supp. 2007, 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~~ passengers or gear so as to exceed the posted capacity plate ~~or to exceed~~, United States Coast Guard standards, or the vessel manufacturer's recommended capacity.

E. No person shall operate or give permission to operate any vessel on the waters of this state for which the manufacturer has affixed a maximum horsepower capacity plate so as to exceed the posted capacity plate or to exceed the United States Coast Guard standards for maximum horsepower capacity; provided, this provision shall not apply to vessels operating in sanctioned events.

F. 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.~~ G. 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.~~ H. No person shall cause, allow, authorize, or permit any child under twelve (12) years of age to operate 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, 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.~~ I. 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 3. AMENDATORY 63 O.S. 2001, Section 4214, is amended to read as follows:

Section 4214. A. The operator and/or passenger of a vessel involved in a collision, accident, or other casualty, shall render

to other persons involved in the collision, accident, or other casualty reasonable assistance as may be necessary and practicable and shall immediately, by the quickest means of communication, give notice of such accident to the local police department if such accident occurs within a municipality, or to the office of the county sheriff or nearest state highway patrol headquarters after complying with the requirements of this section. The operator of a vessel involved in a collision, accident, or other casualty shall give his name, address, and identification of his vessel, in writing, to any person injured in the collision, accident, or other casualty and to the owner of any property damaged in the collision, accident, or other casualty.

B. If a collision, accident, or other casualty results in death or injury to a person or damage to property in excess of ~~Five Hundred Dollars (\$500.00)~~ Two Thousand Dollars (\$2,000.00), the operator of the vessel involved in the collision, accident, or other casualty shall file with the Department of Public Safety a full description of the collision, accident, or other casualty, and such information as the Department may require.

C. Whenever a person is halted by any duly authorized peace officer of this state for any violation of Chapters 70, 71 or 72 of this title, which shall be punishable as a misdemeanor, and is not taken before a magistrate as hereinbefore required or permitted, the officer shall prepare in quadruplicate using the "Oklahoma Uniform Violations Complaint", a written notice to appear in court, such notices to appear to be serially numbered, containing the name and address of the person, the state registration number of his vessel, if any, the offense charged, the time and place when and where the person shall appear in court, and such other pertinent information as may be necessary.

D. The time specified in the notice to appear must be at least five (5) calendar days after the alleged violation unless the person charged with the violation shall demand an earlier hearing.

E. The person charged with the violation may give his written promise to appear in court by signing the written notice to appear prepared by the officer, in which event the officer shall deliver a copy of the notice to appear to the person, and thereupon the officer shall not take the person into physical custody for the violation.

F. If the person charged with the violation is a minor, then the citing officer shall ascertain from the minor the name and address of his parents or legal guardian, and said officer shall cause a copy of the "violation" to be mailed to the address of the parents or legal guardian, within three (3) calendar days after the date of violation.

G. Except for felony violations, any duly authorized peace officer of this state at the scene of a boating accident may issue a written notice to appear to the operator of a vessel involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense in connection with the accident.

H. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the Department of Public Safety pursuant to this section shall be transmitted to said official or agency of the United States.

I. Any employee or officer of an agency of this state, or employee or officer of a municipality or county in this state, shall make a written report to the Department of Public Safety if an occurrence involving a vessel or its equipment results in one or more of the following:

1. A person dies;
2. A person is injured and requires medical treatment beyond first aid;
3. Damage to the vessel and other property totals more than ~~Five Hundred Dollars (\$500.00)~~ Two Thousand Dollars (\$2,000.00) or there is a complete loss of the vessel;
4. A person disappears from the vessel under circumstances that indicate death or injury;
5. A person drowns in swimming to retrieve a vessel that is adrift from its mooring or dock, having departed from a position of inherent safety such as a shore or pier;
6. A person drowns while swimming from a vessel for pleasure and the vessel does not contribute to the drowning;

7. A person drowns after falling from a vessel that is moored or anchored for use as a swimming platform or other purpose;

8. A person dies or is injured while in the act of launching a vessel into a body of water;

9. A person drowns or is injured while surfing;

10. A fatality or injury occurs to an operator or a crew member while participating in an organized/sanctioned race, or warm-up, in a vessel uniquely designed for racing; or

11. Damage, injury or death on a docked, moored or anchored vessel resulting from unusual wake or wave conditions.

SECTION 4. This act shall become effective November 1, 2008.

Passed the House of Representatives the 13th day of March, 2008.

Presiding Officer of the House of
Representatives

Passed the Senate the 22nd day of April, 2008.

Presiding Officer of the Senate