

THE HOUSE OF REPRESENTATIVES
Monday, February 23, 2009

Committee Substitute for
House Bill No. 1365

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1365 - By: BUCK of the House and CRUTCHFIELD of the Senate.

An Act relating to public health and safety; amending 63 O.S. 2001, Section 4214, as amended by Section 3, Chapter 95, O.S.L. 2008 (63 O.S. Supp. 2008, Section 4214), which relates to the Oklahoma Boating Safety Regulation Act; requiring operators of vessels to submit to drug and alcohol testing under certain circumstances; requiring certain procedures be used when administering test; providing immunity from prosecution under certain circumstances; and providing an effective date.

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

1 SECTION 1. AMENDATORY 63 O.S. 2001, Section 4214, as amended by
2 Section 3, Chapter 95, O.S.L. 2008 (63 O.S. Supp. 2008, Section 4214), is amended to
3 read as follows:
4 Section 4214. A. The operator and/or passenger of a vessel involved in a collision,
5 accident, or other casualty, shall render to other persons involved in the collision,
6 accident, or other casualty reasonable assistance as may be necessary and practicable
7 and shall immediately, by the quickest means of communication, give notice of such
8 accident to the local police department if such accident occurs within a municipality, or to
9 the office of the county sheriff or nearest state highway patrol headquarters after
10 complying with the requirements of this section. The operator of a vessel involved in a

1 collision, accident, or other casualty shall give his name, address, and identification of his
2 vessel, in writing, to any person injured in the collision, accident, or other casualty and to
3 the owner of any property damaged in the collision, accident, or other casualty.

4 B. Any operator of a vessel involved in a collision, accident, or other casualty who
5 could be cited for a violation of the Oklahoma Boating Safety Regulation Act where the
6 collision, accident or other casualty resulted in the immediate death or great bodily
7 injury, as defined in subsection B of Section 646 of Title 21 of the Oklahoma Statutes, of
8 any person shall submit to drug and alcohol testing as soon as practicable after such
9 collision, accident or other casualty occurs. The boating violation shall constitute
10 probable cause for purposes of Section 752 of Title 47 of the Oklahoma Statutes and the
11 procedures found in Section 752 of Title 47 of the Oklahoma Statutes shall be followed to
12 determine the presence of alcohol or controlled dangerous substances within the blood
13 system of the operator of the vessel.

14 C. If a collision, accident, or other casualty results in death or injury to a person or
15 damage to property in excess of Two Thousand Dollars (\$2,000.00), the operator of the
16 vessel involved in the collision, accident, or other casualty shall file with the Department
17 of Public Safety a full description of the collision, accident, or other casualty, and such
18 information as the Department may require. No person shall be prosecuted or subjected
19 to any penalty for providing such report to the Department and any statement or
20 information included in such report shall not be received against the person upon any
21 criminal investigation, proceeding or trial.

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

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

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

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

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

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

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

- 14 1. A person dies;
- 15 2. A person is injured and requires medical treatment beyond first aid;
- 16 3. Damage to the vessel and other property totals more than Two Thousand Dollars
17 (\$2,000.00) or there is a complete loss of the vessel;
- 18 4. A person disappears from the vessel under circumstances that indicate death or
19 injury;
- 20 5. A person drowns in swimming to retrieve a vessel that is adrift from its mooring
21 or dock, having departed from a position of inherent safety such as a shore or pier;

1 6. A person drowns while swimming from a vessel for pleasure and the vessel does
2 not contribute to the drowning;

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

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

7 9. A person drowns or is injured while surfing;

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

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

12 SECTION 2. This act shall become effective November 1, 2009.

13 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02-19-09 - DO
14 PASS, As Amended and Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.