

EHB 1365

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**THE STATE SENATE**  
Thursday, March 26, 2009

**ENGROSSED**

**House Bill No. 1365**

ENGROSSED 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:

SECTION 1. AMENDATORY 63 O.S. 2001, Section 4214, as amended by Section 3, Chapter 95, O.S.L. 2008 (63 O.S. Supp. 2008, 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

(Bold face denotes Committee Amendments)

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

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

19 C. If a collision, accident, or other casualty results in death  
20 or injury to a person or damage to property in excess of Two  
21 Thousand Dollars (\$2,000.00), the operator of the vessel involved in  
22 the collision, accident, or other casualty shall file with the  
23 Department of Public Safety a full description of the collision,

1 accident, or other casualty, and such information as the Department  
2 may require. No person shall be prosecuted or subjected to any  
3 penalty for providing such report to the Department and any  
4 statement or information included in such report shall not be  
5 received against the person upon any criminal investigation,  
6 proceeding or trial.

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

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

21 ~~E.~~ F. The person charged with the violation may give his  
22 written promise to appear in court by signing the written notice to  
23 appear prepared by the officer, in which event the officer shall

1 deliver a copy of the notice to appear to the person, and thereupon  
2 the officer shall not take the person into physical custody for the  
3 violation.

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

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

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

21 ~~F.~~ J. Any employee or officer of an agency of this state, or  
22 employee or officer of a municipality or county in this state, shall  
23 make a written report to the Department of Public Safety if an

1 occurrence involving a vessel or its equipment results in one or  
2 more of the following:

- 3 1. A person dies;
- 4 2. A person is injured and requires medical treatment beyond  
5 first aid;
- 6 3. Damage to the vessel and other property totals more than Two  
7 Thousand Dollars (\$2,000.00) or there is a complete loss of the  
8 vessel;
- 9 4. A person disappears from the vessel under circumstances that  
10 indicate death or injury;
- 11 5. A person drowns in swimming to retrieve a vessel that is  
12 adrift from its mooring or dock, having departed from a position of  
13 inherent safety such as a shore or pier;
- 14 6. A person drowns while swimming from a vessel for pleasure  
15 and the vessel does not contribute to the drowning;
- 16 7. A person drowns after falling from a vessel that is moored  
17 or anchored for use as a swimming platform or other purpose;
- 18 8. A person dies or is injured while in the act of launching a  
19 vessel into a body of water;
- 20 9. A person drowns or is injured while surfing;
- 21 10. A fatality or injury occurs to an operator or a crew member  
22 while participating in an organized/sanctioned race, or warm-up, in  
23 a vessel uniquely designed for racing; or

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

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

4 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY & HOMELAND SECURITY,  
5 dated 3-24-09 - DO PASS.