

AMENDED IN ASSEMBLY JUNE 18, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 22, 2014

SENATE BILL

No. 941

Introduced by Senators Monning and DeSaulnier
(Coauthor: Assembly Member Buchanan)

February 4, 2014

An act to add Article 1.4 (commencing with Section 678) to Chapter 5 of Division 3 of the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 941, as amended, Monning. Vessel operator cards.

(1) Existing law prohibits the operation or navigation of a for-hire vessel, as defined, in the waters of California while carrying passengers, except by a person who holds a valid operator's license issued by the Division of Boating and Waterways. Under existing law, a person applying for an operator's license is required to undergo an examination, that may include, among other things, an inspection of the for-hire vessel.

Existing law requires the division to approve boating safety courses and personal watercraft education courses, as specified.

This bill would prohibit the operation of a vessel that is propelled by an engine in the waters of the state except by a person who is in possession of a valid vessel operator card developed and issued by the division, and would impose that prohibition on persons pursuant to a specified schedule. The bill would exempt certain persons from that ~~requirement and would allow a person who rents a vessel to instead possess a rental vessel operator card,~~ *requirement*, as specified.

The bill would require the division, *on or before January 1, 2018*, to develop vessel operator cards and issue a vessel operator card to a person who provides the division with proof that the person has passed a vessel operator examination and would authorize the division to develop an examination. The bill would require the division to provide links to approved examinations on its Internet Web site. The bill would require the division to charge specified fees for those cards, would establish the Vessel Operator Certification Account in the Harbors and Watercraft Revolving Fund, and would require the fees to be deposited in that account. The bill would authorize the division to expend the moneys in the account, upon appropriation by the Legislature, for purposes of the vessel operator card program.

The bill would require an amount not to exceed \$4,000,000 to be transferred, upon appropriation in the annual Budget Act, from the Harbors and Watercraft Revolving Fund to the Vessel Operator Certification Account in the form of a loan to be used by the division to develop and establish the program. The bill would require the division to repay the loan from fees received from the issuance of vessel operator cards within 8 years of the effective date of this act.

The bill would require the division on or before April 1, 2019, and annually thereafter, to prepare a report that contains specified information, including, among other things, the total number of vessel operator cards issued and the number of violations reported to the division. The bill would also require the division on or before April 1, 2023, and again on April 1, 2028, to post on its Internet Web site specified recommendations relating to the program.

The bill would provide that a violation of the bill's provisions is an infraction, and would require a court to order a person who violates those provisions to complete and pass a boating safety course approved by the division. By creating a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 1.4 (commencing with Section 678) is
2 added to Chapter 5 of Division 3 of the Harbors and Navigation
3 Code, to read:

4
5 Article 1.4. Vessel Operators' Education and Certification Cards

6
7 678. (a) On or before ~~December 31, 2017~~, *January 1, 2018*,
8 the division shall develop a vessel operator card ~~and a rental vessel~~
9 ~~operator card~~ to be issued pursuant to this article.

10 (b) The division shall issue, or cause to be issued, a vessel
11 operator card to a person who provides the division with proof that
12 the person has passed a vessel operator examination approved by
13 the division or a vessel operator course that includes an
14 examination and is approved by the division pursuant to Section
15 668.1 or 668.3.

16 (c) ~~Except for a rental vessel operator card issued pursuant to~~
17 ~~Section 678.13, a~~ A vessel operator card shall be valid for the life
18 of the person to whom it is issued.

19 678.3. (a) (1) The division shall determine the fees required
20 under this section in amounts sufficient to cover the reasonable
21 costs of the development, establishment, and operation of the
22 program. The fees shall not exceed those costs.

23 (2) The division shall charge a fee not to exceed thirty dollars
24 (\$30) for the initial vessel operator card issued pursuant to
25 subdivision (b) of Section 678.

26 (3) The division shall charge a fee not to exceed ten dollars
27 (\$10) for a duplicate vessel operator card issued pursuant to
28 subdivision (b) of Section 678.

29 (b) In determining the amount of the fees imposed pursuant to
30 this section, the division shall establish, and consult with, a
31 technical advisory group consisting of interested persons, including,
32 but not limited to, representatives of the boating community. The
33 director shall appoint the members of the advisory group.

34 (c) The fees collected pursuant to this section shall be deposited
35 in the Vessel Operator Certification Account, which is hereby
36 established within the Harbors and Watercraft Revolving Fund.

1 (d) The division may expend the moneys in the Vessel Operator
2 Certification Account, upon appropriation by the Legislature, for
3 purposes of implementing this article.

4 678.5. (a) The division may develop and provide a vessel
5 operator examination on the division's Internet Web site. The
6 division shall provide links from the division's Internet Web site
7 to other vessel operator examinations approved by the division
8 that are available through a provider whose course has been
9 approved by the National Association of State Boating Law
10 Administrators.

11 (b) If the division contracts for the provision of vessel operator
12 examination services with test vendors, the division shall conduct
13 a formal competitive bid process and shall contract with more than
14 one vendor for those services.

15 (c) A vessel operator examination developed or approved by
16 the division shall be consistent with the National Association of
17 State Boating Law Administrators' National Boating Education
18 Standards, as applicable to basic vessel operations, rules of
19 navigation, and boating safety only.

20 678.7. (a) An amount not to exceed four million dollars
21 (\$4,000,000) shall, upon appropriation in the annual Budget Act,
22 be transferred from the Harbors and Watercraft Revolving Fund
23 to the Vessel Operator Certification Account in the form of a loan
24 to be used by the division to develop and establish the program
25 under this article.

26 (b) The division shall repay the loan described in subdivision
27 (a) from fees received pursuant to Section 678.3 within eight years
28 of the effective date of this article.

29 (c) If the division has not repaid the loan within the time period
30 specified in subdivision (b), the division shall notify the Joint
31 Legislative Budget Committee.

32 (d) The loan shall not impair the intended expenditure purposes
33 of the Harbors and Watercraft Revolving Fund.

34 678.9. (a) On or before April 1, 2019, and on or before April
35 1 annually thereafter, the division shall prepare a report that
36 includes all of the following information with respect to the prior
37 calendar year:

38 (1) The total number of vessel operator cards issued pursuant
39 to this article.

1 (2) The fees collected, and the costs incurred, by the division
2 pursuant to this article.

3 (3) The correlation between vessel operator cards issued and
4 the number of accidents, injuries, and fatalities related to the
5 operation of vessels in the state that are reported pursuant to
6 Section 656.

7 (4) The number of violations of this article reported to the
8 division.

9 (b) The report shall be posted on the division’s Internet Web
10 site.

11 (c) *On or before April 1, 2023, and again on April 1, 2028, the*
12 *report prepared by the division and posted on its Internet Web site*
13 *shall include recommendations, developed by the division, in*
14 *consultation with the technical advisory group established pursuant*
15 *to subdivision (b) of Section 678.3, relating to any program*
16 *changes to improve boater safety in California or, alternatively,*
17 *reasons why the program should not be continued.*

18 678.11. (a) Subject to the schedule in subdivision (b), a person
19 shall not operate on waters subject to the jurisdiction of the state
20 a vessel that is propelled by an engine, regardless of whether the
21 engine is the principal source of propulsion, unless the person has
22 in his or her possession a vessel operator card issued by the division
23 pursuant to subdivision (b) of Section 678.

24 (b) A person is subject to subdivision (a) according to the
25 following schedule:

26 (1) On and after January 1, 2018: A person 20 years of age or
27 younger.

28 (2) On and after January 1, 2019: A person 25 years of age or
29 younger.

30 (3) On and after January 1, 2020: A person 35 years of age or
31 younger.

32 (4) On and after January 1, 2021: A person 40 years of age or
33 younger.

34 (5) On and after January 1, 2022: A person 45 years of age or
35 younger.

36 (6) On and after January 1, 2023: A person 50 years of age or
37 younger.

38 (7) On and after January 1, 2024: A person 60 years of age or
39 younger.

40 (8) On and after January 1, 2025: All persons, regardless of age.

1 (c) This section does not apply to *any of* the following:

2 (1) A person who is a resident of another state or a foreign
3 country who is operating a vessel and meets either of the following
4 requirements:

5 (A) The person is temporarily using the waters of this state for
6 a period not to exceed 60 days, and meets the applicable
7 requirements, if any, of his or her state of residency.

8 (B) The person is temporarily using the waters of this state for
9 a period not to exceed 90 days, and meets the applicable
10 requirements, if any, of his or her country of residency.

11 (2) A person operating a vessel while under the direct
12 supervision of a person 18 years of age or older who is in
13 possession of a vessel operator card issued pursuant to subdivision
14 (b) of Section 678 ~~or a rental vessel operator card issued pursuant~~
15 ~~to Section 678.13~~ or who is not required to possess a vessel
16 operator card pursuant to paragraph (6).

17 (3) A person operating a vessel in an organized regatta or vessel
18 race, or water ski race.

19 (4) A person operating a rental vessel ~~who is in possession of~~
20 ~~a rental vessel operator card pursuant to Section 678.13.~~

21 (5) A person who is in possession of a current commercial
22 fishing license.

23 (6) A person who is in possession of a valid marine operator
24 license, for the waters upon which the licensee is operating, issued
25 by the United States Coast Guard, or who is in possession of a
26 valid certificate issued pursuant to the International Convention
27 on Standards of Training, Certification and Watchkeeping for
28 Seafarers, 1978, as amended.

29 ~~678.13. (a) On and after January 1, 2018, a rental agent shall~~
30 ~~require the renter or operator of a rental vessel to show proof of~~
31 ~~possession of a vessel operator card issued pursuant to subdivision~~
32 ~~(b) of Section 678 before renting a vessel. If the renter or operator~~
33 ~~of the rental vessel does not provide proof of possession of a vessel~~
34 ~~operator card, the rental agent shall, subject to the requirements~~
35 ~~of subdivision (b), issue to the renter or operator of the rental vessel~~
36 ~~a rental vessel operator card developed by the division pursuant~~
37 ~~to subdivision (a) of Section 678 and a map of the waterway the~~
38 ~~renter or operator indicates is the location of intended operation.~~

39 ~~(b) (1) A rental agent shall issue a rental vessel operator card~~
40 ~~only to a person who completes and passes a rental vessel operator~~

1 examination that is developed or approved by the division for the
2 purpose of this section.

3 ~~(2) The rental vessel operator examination that is developed by~~
4 ~~the division shall be an abbreviated version of the vessel operator~~
5 ~~examination developed by the division pursuant to Section 678.5~~
6 ~~with a focus on basic vessel operation, navigation, and safety. The~~
7 ~~division shall make the examination available on its Internet Web~~
8 ~~site.~~

9 ~~(3) The division shall also approve site-specific rental vessel~~
10 ~~operator examinations. These site-specific examinations shall be~~
11 ~~tailored to and recognize the vessel rental circumstances, include~~
12 ~~information specific to the type of vessel and the type of waterway,~~
13 ~~and provide information concerning state boating laws, operating~~
14 ~~instructions, equipment operation, and boating safety.~~

15 ~~(4) The division may charge a rental agent a fee to cover the~~
16 ~~costs to the division of approving a site-specific rental vessel~~
17 ~~operator examination pursuant to paragraph (3) for the site at which~~
18 ~~the rental agent operates. The fee shall not exceed those costs.~~

19 ~~(5) A person may satisfy the requirements of the rental vessel~~
20 ~~operator examination by passing the division-developed rental~~
21 ~~operator examination or an approved site-specific rental vessel~~
22 ~~operator examination.~~

23 ~~(e) A rental vessel operator card shall be valid for a period of~~
24 ~~not more than 30 days from the date of the initial rental for which~~
25 ~~the card was issued pursuant to subdivision (a).~~

26 ~~(d) For purposes of this section, “rental agent” means a person~~
27 ~~engaged in the business of providing for rent a vessel or vessels~~
28 ~~propelled by an engine, regardless of whether the engine is the~~
29 ~~principal source of propulsion.~~

30 678.15. (a) A violation of this article is an infraction.

31 (b) A person convicted of an infraction for a violation of this
32 article shall be punished as follows:

33 (1) For an initial conviction, by a fine of not more than one
34 hundred dollars (\$100).

35 (2) For a second conviction, by a fine of not more than two
36 hundred fifty dollars (\$250).

37 (3) For a third or subsequent conviction, by a fine of not more
38 than five hundred dollars (\$500).

39 (c) A fine imposed on a vessel operator pursuant to subdivision
40 (b) shall be waived, if the vessel operator provides proof that he

1 or she had a valid vessel operator card ~~or rental vessel operator~~
2 ~~card~~ at the time of the citation.

3 (d) (1) In addition to the fines imposed by subdivision (b), the
4 court shall order a person convicted of violating this article to
5 complete and pass a boating safety course approved by the division
6 pursuant to Section 668.3.

7 (2) If a person who is ordered to complete and pass a boating
8 safety course pursuant to paragraph (1) is 18 years of age or
9 younger, the court may require that person to obtain the consent
10 of a parent or guardian to enroll in that course.

11 (3) A person who has been ordered by a court to complete a
12 boating safety course pursuant to paragraph (1) shall submit to the
13 court proof of completion and passage of the course within seven
14 months of the date of his or her conviction. The proof shall be in
15 a form that has been approved by the division and that is capable
16 of being submitted to the court or a state or local agency approved
17 by the division through the United States Postal Service or another
18 certified means of transmission.

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.